IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 7717 of 2018
and W.M.P. Nos.9632 & 9633 of 2018

1.D.Loganathan
2.D.Munirathinam .. Petitioners

Vs.

The Inspector General of Registration,
100, Santhome High Road,
Chennai - 600 028. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorari to call for the records relating to the impugned notice dated 05.03.2018 (served on 13.03.2018) made in Letter No.56779/U1/16 passed by the respondent, quash the same.

For Petitioners: Ms. Indira Priyadarshini
for N.Manokaran

For Respondent : Mr. P.P.Purushothaman
Government Advocate

O R D E R

This Writ Petition is filed for issuing a Writ of Certiorari to quash the impugned notice issued by the respondent dated 05.03.2018 stated to have been served on 13.03.2018.

2. Brief facts that are necessary for the disposal of the writ petition are as follows. The petitioners jointly purchased an extent of 5 cents in Survey No.127/3 & another extent of 72 ½ cents in Survey No.127/4A in Kondasamuthiram Village, Gudiyattam Taluk, Vellore District, by a registered sale deed dated 29.10.2013. The sale deed was executed by one Mr. R.S.Sivaprakasam and others. It is stated by the petitioners that the Sub-Registrar, after verifying the documents, directed the petitioners to pay a sum of Rs.76,464/- as stamp duty as per the guideline value and a further sum of Rs.12,775/- towards charges for registration. The Special Deputy Collector, initiated proceedings under Section 47 A (2) of the Indian Stamp

Act and directed the petitioners to pay deficit stamp duty to the tune of Rs.32,186/- and registration charges to the tune of Rs.4,600/- as per the communication dated 13.03.2014.

3. It is the case of the petitioners that the petitioners have paid the amount as per the demand. The grievance of the petitioners is that after four years the respondent issued impugned notice dated 05.03.2018, to show cause why action should not be taken to fix the stamp duty at the rate of Rs.350/- per sq.ft. Though the petitioners have raised several grounds, this Court is of the view that the impugned order is liable to be quashed on the short ground of violation of principles of natural justice.

4. Learned Government Advocate appearing for the respondent relying upon Section 47 A (6) of Indian Stamp Act, 1899, submitted that the writ petition challenging the show cause notice issued under Section 47 A (6) of the Indian Stamp Act, cannot be entertained as the petitioner has to participate in the proceeding that has now been initiated by the respondent by exercising suo motu power.

5. No doubt it is open to the respondent to initiate suo motu proceedings and to make a fresh enquiry to revise or set aside the order passed under sub Section 2 or 3 of Section 47 A of the Indian Stamp Act. The position is well settled to the effect that every statute should be interpreted to the extent possible to bring the legislation within the constitutional limits. Even if the statute does not require observance or adherence to the principles of natural justice, this Court has to read into the provisions so as to make the legislation constitutional. In the present case, a reference was made earlier and the petitioners were directed to pay deficit stamp duty of Rs.32,186/- and registration charges to the tune of Rs.4,600/- as per the order of Special Deputy Collector dated 13.03.2014. Nearly after four years, the respondent issued a notice under Section 47 A(6) of the Indian Stamp Act. The impugned order does not indicate any reason for requiring the petitioners to show cause. Secondly, the impugned order is a show cause notice calling upon the petitioners as to why stamp duty should not be collected from them after determining the market value at the rate of Rs.350/- per sq.ft. The particulars or details as to how and in what manner the said sum of Rs.350/- per sq. ft. was arrived is not shown in the order. Even if the respondents have obtained any credible information or material to show that the property had been undervalued for the purpose of stamp duty, the enquiry under Section 47A (6) should be independent and in compliance of principles of natural justice.

6. It is well settled that mere show cause notice without any information or particulars on the basis of which proceeding was initiated under Section 47 A (6) cannot satisfy the principles of natural justice. The nature of order or communication passed by the Inspector General cannot be accepted as valid in view of the position that the impugned notice cannot be treated as a mere show cause notice. The first respondent had taken a decision to fix the market value at the rate of Rs.350/- per Sq.ft. In the absence of any credible information for initiating suo-motu proceedings under Section 47 A(6) of the Indian Stamp Act, fixing market value at Rs.350/- per Sq.ft. the petitioners may not be able to submit effective objections or state facts in response to the notice. Hence, the impugned order is liable to be set aside on the simple ground of violation of principles of natural justice.

7. Accordingly, the writ petition is allowed and the impugned notice dated 05.03.2018 passed by the respondent is hereby quashed. However, it is open to the respondent to initiate proceedings under Section 47 1A(6) of the Indian Stamps Act, in the manner know to law after following principles of natural justice within the prescribed time limit. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

bkn

To

The Inspector General of Registration,
100, Santhome High Road,
Chennai - 600 028.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.12921
+1cc to the Government Pleader, SR.No.12785

W.P. No. 7717 of 2018

PL(CO)
CB(23/07/2021)