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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.NO.10097 OF 2019

T.Pandiaraj

... Petitioner

vs.

1. The Special Deputy Collector - Stamps,
Collectorate,
Thanjavur.

2. The Sub-Registrar,
Mannargudi,
Tiruvarur District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the 1st Respondent in S.R.Sl.No.292/2018 (Stamps) dated 23.01.2019 and quash the same as illegal, arbitrary, against the provisions of the Act and Rules and also against the principles of natural justice.

For Petitioner : Mr.K.Soundararajan

For Respondents : Mr.U.Baranidharan,
Government Advocate

O R D E R

Petitioner has come up with this Writ Petition challenging the impugned order dated 23.01.2019 passed by the 1st Respondent herein.

2. According to the Petitioner, he purchased the land measuring an extent of 3200 sq. ft. in the South West portion of the total extent of 13,709 sq. ft. along with a dilapidated mud house in T.S.No.2143/2 on the Northern side of the Haridranathi North Bund Street in Ward No.1, Block No.36, Door No.16, Mannargudi Town, Tiruvarur District, situated within the Mannargudi Sub Registration District and the Nagapattinam Registration District from one Kannamma @ R.Radha Raja for a



sale consideration of Rs.19,52,900/-. Though, the document was presented for registration on 02.08.2018 before the 2nd Respondent and the same was registered as Doc.No.3436 of 2018 on 02.08.2018, the same was not released.

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3. However, the Petitioner was shocked to receive the impugned order dated 23.01.2019 passed by the 1st Respondent, in which, he had arbitrarily fixed the value of the lands at Rs.32,83,280/- at the rate of Rs.3,640/- per sq. metre and determined the stamp duty at 7% at Rs.2,29,830/- and directed the Petitioner to remit the balance stamp duty of Rs.93,125/-. It is the case of the Petitioner that, the 1st Respondent has not followed the procedures contemplated under the Act and has not granted an opportunity of hearing before passing the impugned order. Hence, challenging the same, the Petitioner is before this Court.

4. Learned counsel for the Petitioner contended that, the 1st Respondent failed to note that, before fixing the provisional market value of the land, as per Rule 4(4) and 6 of the Tamil Nadu Stamp (Prevention of Under-valuation of Instruments) Rules, 1968, inspection of the property after due notice to the parties has to be done. But, in the case on hand, the 1st Respondent had proceeded to inspect the property without even issuing notice to the Petitioner.

5. Learned Additional Government Pleader appearing for the Respondents submitted that, Respondents have followed necessary procedures before conducting inspection of the Petitioner's property, by sending notice to the Petitioner by way of Ordinary Post.

6. Heard the learned counsel for the parties and perused the material documents available on record.

7. Facts of the case are not in dispute. As per Rule 6 of the Tamil Nadu Stamp (Prevention of Under Valuation of Instruments) Rules, 1968, provisionally determined order has to be sent to the Petitioner along with Notice in Form - II. But, in the case on hand, the Petitioner was not issued such Notice. Thus, as per Section 47A(2) of the Indian Stamp Act, the 1st Respondent had erred in not granting an opportunity of personal hearing to the Petitioner, before passing the impugned order. However, in the counter Affidavit, the 1st Respondent has taken a stand that, the contents of the Reference made by the 2nd Respondent is given in Form No.I Notice sent to the Petitioner and there is no necessity to enclose a copy of the Reference of the 2nd Respondent, to the Petitioner.



8. But, the fact remains that, the 1st Respondent had erred in not granting an opportunity of personal hearing to the Petitioner as per Section 47A(2) of the Indian Stamp Act, before passing the impugned order. Hence, on this ground, the impugned order passed by the 1st Respondent is liable to be set aside. Accordingly, the impugned order dated 23.01.2019 passed by the 1st Respondent is set aside and the matter is remanded to the 1st Respondent for fresh consideration. The 1st Respondent is directed to determine the market value of the land in question after following the procedures contemplated under the Act and Rules, and pass appropriate orders in accordance with law after affording an opportunity of hearing to the Petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

The Writ Petition is allowed with the above direction. No costs. Consequently, connected W.M.P.No.10665 of 2019 is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Special Deputy Collector - Stamps,
Collectorate,
Thanjavur.
2. The Sub-Registrar,
Mannargudi,
Tiruvavur District.

+1cc to Mr.K.Soundararajan, Advocate, S.R.No.58633
+1cc to the Government Pleader, S.R.No.58985

W.P.No.10097 of 2019

GJ(CO)
PM/25/01/2022