IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2021

CORAM

THE HON'BLE Mr. JUSTICE C.V.KARTHIKEYAN

W.P.No.14103 of 2021
and W.M.P.No.14977 of 2021

R.Suresh Kumar .. Petitioner

Vs.

The Sub-Registrar
Office of the Sub-Registrar,
Gandhipuram,
Coimbatore. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of order dated 19.03.2021 on the file of respondent.

For Petitioner : Mr.Mari Singh
for Mr. W. Ponraj

For Respondent : Mr.Yogesh Kannadasan
(Govt.Advocate)

ORDER

The Writ Petition has been filed in the nature of Certiorari to call for the order dated 19.03.2021 passed by the Sub-Registrar, Gandhipuram, Coimbatore and quash the same.

2.The circumstances leading to the filing of the present Writ Petition was that the petitioner was the beneficiary of a Release Deed executed as Document No.9581 of 2015 on 07.12.2015 by the Sub-Registrar, Gandhipuram, Coimbatore. It is claimed that during the registration, requisite stamp duty and registration charges had been paid. Subsequently, the respondent / Sub-Registrar, made a field inspection and verified the stamp duty paid and the value of the building mentioned in the document.

3.As stated this was in the year 2015. Subsequently, on 19.03.2021 after five years, the impugned order was passed by the respondent seeking deficit stamp duty of a sum of Rs.1,17,650 and registration fees of a sum of Rs.15,660/-. They demanded a total sum of Rs.1,33,310/- to be paid by the petitioner herein. The petitioner had questioned such an order which was dated 19.03.2021 by way of filing this Writ Petition.

4.The respondent, if he had doubt about the stamp duty actually paid should have referred the matter under Section 47-A of the Indian Stamp Act, 1899, which pertains to an instrument of conveyance under valued.

5.The said provision is quite comprehensive in nature and a careful reading of the said provision would indicate that the Sub-Registrar had been given a period of three years to raise any objections for collection of additional stamp duty or deficit stamp duty, as the case may be. Even if the matter is referred to the Collector, a period of five years given to collect the deficit stamp duty.

6.In this case, the Sub-Registrar, much after three years has called upon the writ petitioner to pay the deficit stamp duty. The only reasons stated was that, there was an audit inspection in the office of the respondent and thereafter, compulsion arose necessitating the respondent to issue the impugned order to the petitioner without realizing that after a period of three years, he had no such power to issue such an impugned order. The impugned order will have to be necessarily struck down by stating that such demand is violative of the provision of Section 47-A of the Indian Stamp Act, 1899.

7.My attention is also drawn to a Division Bench Judgment of this Court in W.A.(MD) No.1099 of 2016 in District Registrar and others V. R.Chidambara Raja Ratinam and others, wherein, in quite similar circumstances, the Division Bench after examining a catena of judgments had finally stated the same position of law and a similar nature of order was passed that after five years demand for payment of deficit stamp duty cannot be sustained and the orders of recovery was interfered with and as a matter of fact quashed.

8.With much pleasure I follow the said judgment rendered by the Division Bench and accordingly, the impugned order is also set aside and quashed. The Writ Petition is allowed. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO-IV)

//True Copy//

Sub Assistant Registrar

smv

To

The Sub-Registrar
Office of the Sub-Registrar,
Gandhipuram,
Coimbatore.

+1cc to Mr.Mari Singh, Advocate, S.R.No.38751
+1cc to the Government Pleader, S.R.No.39087

W.P.No.14103 of 2021

GPL(CO)
CT(23/08/2021)