IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.09.2021

CORAM:

THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

W.P.No.20736 of 2019

P.Subramanian ...Petitioner

Versus

1. The Inspector General of Registration,
No.100, Santhome High Road,
Santhome,
Chennai - 600 028.

2. The District Revenue Officer (Stamps),
Coimbatore District.

3. The Sub-Registrar,
Office of the Sub Registrar,
Anthiyur,
Erode District - 638 301. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 1st respondent to take up the unnumbered Appeal No.NIL of 2017 on the file of the 1st respondent filed by the petitioner on 03.04.2017 under Section 47-A(5) of Indian Stamp Act, 1899 and to number and dispose off the same in accordance with law and on merits after affording an opportunity of fair hearing to the petitioner expeditiously within a time frame as stipulated by this Court.

For Petitioner : Mr.R.Prabakaran

For Respondents : Mr.V.Veluchamy
Government Advocate

ORDER

This writ petition has been filed for issuance of Writ of Mandamus, directing the 1st respondent to take up the unnumbered Appeal No.NIL of 2017 on the file of the 1st respondent filed by the petitioner on 03.04.2017 under Section 47-A(5) of the Indian Stamp Act, 1899 and to number and dispose of the same in accordance with law and on merits after affording an opportunity of fair hearing to the petitioner expeditiously within a time frame.

2. According to the petitioner, he purchased an agricultural land in R.S.No.1485/1, 2 admeasuring an extent of 0.33 acres registered by way of Sale Deed in Document No.1026 of 2013 dated 22.02.2013 on the file of Sub-Registrar Office, Anthiyur, and the petitioner is in peaceful possession and enjoyment of the said land till date. The market value of the said land as on date of purchase was Rs.1,98,000/- (Rupees One Lakh Ninety Eight Thousand only). After completion of registration, the 3rd respondent/Sub Registrar handed over the registered document to him. Thereafter, he entered into a partition of the said property along with other ancestral properties with his daughters namely (i) T.S.Vasuki, (ii) T.S.Amudha and (iii) T.S.Narmadha vide registered Partition Deed in Document No.1944 of 2013, dated 29.04.2013 on the file of Sub-Registrar Office, Anthiyur. The property in R.S.No.1485/1, 2 was allotted as 'D' Schedule property to his youngest daughter namely T.S.Narmada and the same is in her separate possession and enjoyment. The Special Tahsildar (Stamps), Gobichettipalayam on 31.07.2015 had sent a final notice to the petitioner under Section 47-A(3) of Indian Stamp Act, 1899 determining the market value of the property at R.125/- per Sq.ft and called upon the petitioner to pay the difference sum of Rs.1,11,845/-(Rupees One Lakh Eleven Thousand Eight Hundred and Forty Five only) along with interest, failing which appropriate proceedings will be initiated for attachment of the said property as per the provisions under Section 48 of Indian Stamp Act, 1899 and Section 5 of Tamil Nadu Revenue Recovery Act, 1864. In pursuant to the said notice, he sent a letter to the Special Tahsildar (Stamps), Gobichettipalayam, dated 01.09.2015 stating that he had not purchased the said property as housing plot site and he was already owing agricultural land adjacent to the said lands and he further requested him to inspect the land and consequently, to cancel the difference stamp duty as indicated in the notice dated 31.07.2015.

3. According to the petitioner, he did not receive any communication neither from the office of the Special Tahsildar (Stamps), Gobichettipalayam, nor from the 2nd respondent. No field inspection was conducted and no personal enquiry was held by the respondents till date. Thereafter, the 2nd respondent has sent a Notice dated 04.11.2015 to the petitioner to pay the difference stamp duty within 15 days. The petitioner ever since from the date of purchase of the said lands, he was never issued with any notice demanding to pay the difference stamp duty except the one which was issued to him only on 31.07.2015. In pursuant to the notice dated 04.11.2015, the 3rd respondent had effected an entry now in the encumbrance certificate vide Document No.1026/2013 stating that deficit stamp duty due to a sum of Rs.2,71,730/- (Rupees Two Lakhs Seventy One Thousand and Seven Hundred and Thirty only) is pending without any valid reasons. In this regard, the petitioner sent an application dated 19.10.2016 to the Public Information Officer in the office of the Special

Tahsildar (Stamps), Gobichettipalayam, requesting to furnish certain information on the above. The petitioner was informed as early on 06.04.2015, itself a field inspection was conducted and a final order was passed by the 2nd respondent vide proceedings in Mu.Pa.No.286/G/2015, dated 06.04.2015. The petitioner was not informed about the proceedings and the order passed by the 2nd respondent which is against the principles of natural justice and in violation of Fundamental Rights guaranteed under Articles 14, 19 and 21 of the Constitution of India. Therefore, the petitioner has preferred an appeal under Section 47-A(5) of the Indian Stamp Act, 1899, before the 1st respondent along with all relevant documents through RPAD and the same was received and acknowledged by the 1st respondent on 17.04.2017, but the appeal is neither numbered nor sent any communication to the petitioner in this regard. Though the appeal was preferred on 03.04.2017 and it is still pending for more than two years before the first respondent. Hence, the petitioner has come forward with the present writ petition.

4. The learned counsel appearing for the 3rd respondent in his counter affidavit, wherein it is stated that the petitioner was purchased the property in R.S.No.1485/1 and 2 in Anthiyur Village measuring to an extent of 33 cents through Sale Deed, registered as Document No.1026 of 2013 dated 22.02.2013 on the file of the 3rd respondent. Since the value of the property set forth in the said Sale Deed is at R.1,98,000/-, the respondent herein referred the same to the 2nd respondent who is the District Collector under Section 47-A(1) of the Indian Stamp Act, 1899 for determination of true market value of the property under Section 47-A(2) ibid. The 2nd respondent determined the market value of the property under the same Act r/w Rule 7 of the Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules, 1968 in his proceedings No.286/G/2015, dated 06.04.2015. As the value determined by the 2nd respondent, the petitioner filed a statutory appeal under Section 47-A(5) of the Indian Stamp Act on 03.04.2017 before the 1st respondent/Inspector General of Registration.

5. He further submitted that the 1st respondent/Inspector General of Registration has been numbered the appeal petition of the petitioner under Section 47-A(5) of the Indian Stamp Act as No.17367/N2/2017 and physical inspection report as to the market value prevailing in the vicinity of the property in question was also received from the District Registrar of Coimbatore. Since similar appeals are pending to be heard pertaining to the appeal filed, the case of the petitioner will be taken by the 1st respondent for personal hearing by seniority wise. Hence, there is no truth in the averments of the petitioner.

6. Heard, learned counsel appearing for the petitioner and learned Government Advocate appearing for the respondents and perused the materials available on record.

7. On perusal of the records and counter affidavit filed by the 3rd respondent, it is seen that the appeal has been numbered and all the necessary details has also been received by the Authorities concerned in the proceedings. The petitioner has preferred an appeal in the year 2017 and the writ petition is of the year 2019 and this Court is of the view that the Authorities has to dispose of the petition within a time frame.

8. Having regard to the limited scope of the prayer that is now sought for in this writ petition before this Court and taking into account the submissions made on either side, without expressing any opinion on the merits of the petitioner's case pleaded by the petitioner in the present writ petition, the Writ Petition is disposed of, the 1st respondent is hereby directed to dispose of the appeal already numbered under Section 47A(5) of the Indian Stamp Act as No.17367/N2/2017 to pass appropriate orders on merits and in accordance with law, after affording an opportunity of fair hearing to the petitioner as expeditiously as possible within a time frame as stipulated by this Court. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//
Sub Assistant Registrar

gba/msm
To

1. The Inspector General of Registration,
No.100, Santhome High Road,
Santhome,
Chennai - 600 028.

2.The District Revenue Officer (Stamps),
Coimbatore District.

3. The Sub-Registrar,
Office of the Sub Registrar,
Anthiyur, Erode District - 638 301.

W.P.No.20736 of 2019

JP II(CO)
A.SK(27.10.2021)