IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.NO.25790 OF 2021 AND
WMP.NO.27246 OF 2021

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

Vs

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

Prayer :-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the impugned order dated 18.10.2021 (signed on 21.10.2021) made in Letter No.56779/U1/2016 passed by the respondent and quash the same.

For Petitioners : Mr.N.Manokaran

For Respondent : Mr.Yogesh Kannadasan,
Special Government Pleader

ORDER

This writ petition is filed to issue a Writ of Certiorari calling for the records relating to the impugned order dated 18.10.2021 (signed on 21.10.2021) made in Letter No.56779/U1/2016 passed by the respondent and quash the same.

2. The petitioners have jointly purchased property to an extent of 5 cents comprised in survey no.127/3 and 72 ½ cents in survey no.127/4A situated at Kodasamuthiram Village, Gudiyattam Taluk, Vellore District by the registered sale deed dated 29.10.2013 from one, R.S.Sivaprakasam and others and registering authority verified the documents and after being satisfied with

the due compliance of the requisite stamp duty, registration fees, etc. the sale deed was registered as document No.9717 of 2013 on 29.10.2013. However, it was referred before the Special Deputy Collector and initiated proceedings under Section 47A(2) of the Indian Stamp Act, thereby the petitioners were directed to pay deficit stamp duty at Rs.32,186/- and registration charges of Rs.4,600/- as per order dated 13.03.2014. Accordingly, the petitioners have paid deficit stamp duty and registration fees and original sale deed was released vide document No.9717 of 2013. After 4 ½ years, the respondent issued show cause notice dated 05.03.2018 by exercising its suo motu power under Section 47A(6) of the Stamp Act, 1899 to show cause as to why an action should not be taken to fix stamp duty at the rate of Rs.350/- per sq.ft. within a period of 21 days. It was challenged by the petitioners before this Court in WP.No.7717 of 2018 and the same was allowed by order dated 01.03.2021. While allowing the writ petition, this Court observed that it is open to the respondent to initiate proceedings under Section 47-1A(6) of the Indian Stamp Act in the manner known to law after following the principles of natural justice within the prescribed time limit. In pursuant to the same, the impugned show cause notice was issued by the respondent on 18.10.2021.

3. The learned counsel for the petitioners submitted that when it was the reason this Court already quashed the show cause notice issued by the respondent without following any procedure, again the impugned show cause notice has been issued by the respondent. The respondent has not indicated its satisfaction to invoke its suo motu power under Section 47 A(6) of the said Act. The primary object behind, engrafting suo motu power under Section 47 A(6) is that the order passed under Section 47 A(2) should be first examined and found that it is prejudicial to the interests of the revenue. There should be a categorical finding in the order. In support of his contention, he relied upon the judgment of the Hon'ble Division Bench of this Court passed in CMA.No.39 of 2009 dated 08.06.2018 reported in Manu/TN/2676/2018, wherein it is held that Section 47-A(6) of the Act empowers the Inspector General of Registration to cause suo motu enquiry if he was of the opinion, after arriving at a subjective satisfaction, that interest of revenue is due prejudiced by reason of any order passed by his subordinates in exercise of the powers conferred on them under Section 47-A(2) and 47-A(3) of the Act. Further held that for invoking the powers conferred under Section 47-A(6) of the said Act, the respondent has to record his subjective satisfaction that by reason of an order passed by his subordinates, interest of revenue is prejudiced or affected. Thus, by and large, the Act confers powers upon the authorities under the Act largely to ensure that interest of revenue is fully and adequately protected.

4. Heard, Mr.N.Manokaran, the learned counsel for the petitioners, and Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondent.

5. It is true that the respondent has to record his subjective satisfaction that by reason of an order passed by his subordinates, interest of revenue is prejudiced or affected. Whereas, in the present writ petition, the petitioner challenged the show cause notice dated 18.10.2021. On perusal of the show cause notice, the respondent categorically stated that the guideline value in respect of the subject property fixed as Rs.350/- sq.ft. Whereas the sale deed presented for registration by the petitioner had shown value as Rs.32/- per sq.ft. Further stated that in the proceedings initiated under Section 47-A(1) of the said Act, the value of the property fixed at Rs.20,00,000/- per acre. However, the boundaries of the said property shows that it is located on the western side of the travels bungalow and located on the southern side of 23 feet road. The respondent satisfied itself and issued only show cause notice as to why an action should not be taken to fix stamp duty at the rate of Rs.350/- per sq.ft. Therefore, the above judgment is not helpful to the case on hand.

6. In view of the above, this Court finds no infirmity or illegality in the impugned show cause notice issued by the respondent and the writ petition is devoid of merits and liable to be dismissed. Accordingly, this writ petition is dismissed. However, the petitioners are directed to submit their explanation within a period of two weeks from the date of receipt of copy of this order. Thereafter, the respondent is directed to give opportunity of hearing to the petitioners and pass orders on merits and in accordance with law within a period of two weeks thereafter. Consequently, connected miscellaneous petition is closed. No order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

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

+1cc to the Government Pleader, S.R.No.64355

WP.No.25790 of 2021

PL(CO)
PM/27/12/2021