



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2021

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.27162 of 2021

and

W.M.P.No.28906 of 2021

Ponnusamy

... Petitioner

Vs

The Joint Sub-Registrar No.2,
Registration Department,
Tiruppur.

... Respondent

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned demand notice dated 06.08.2021 in Document No.5341/2020 on the file of the respondent herein, quash the same and consequently direct the respondent herein to remove the entries regarding the above demand in the Encumbrance Certificate.

For Petitioner : Mr.K.Govi Ganesan

For Respondent : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This writ petition is filed to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned demand notice dated 06.08.2021 in Document No.5341/2020 on the file of the respondent herein, quash the same and consequently direct the respondent herein to remove the entries regarding the above demand in the Encumbrance Certificate.

2. The petitioner is the President of "Arulmigu Shri Santhakaruparayan Temple, Thilagar Nagar Trust. One Mangayarkarasi was the absolute owner of the building and land, measuring an extent of 43 sq.mts, comprised in S.F.No.338, situated at Velampalayam Village, Anuparpalayam, Tiruppur Taluk and District. Thereafter, she had executed a gift deed in favour of the Trust on 20.10.2020 and presented the same for



registration before the respondent. It was registered as Document No.5341 of 2020. The petitioner valued the settlement deed at Rs.2,48,500/- and paid the stamp duty at Rs.17,395/- and besides he also paid the necessary registration fees. However, by the impugned notice, dated 06.08.2021, the respondent demanded a sum of Rs.69,475/- as deficit stamp duty and a sum of Rs.39,700/- as deficit registration fees for the reason that the subject property was valued at Rs.5,775/-per sq.mts.

3. The learned counsel for the petitioner submitted that, without even issuing any prior notice and affording an opportunity of hearing to the petitioner, the respondent straight away made demand, that too without quoting any provision of law. After registration of the settlement deed executed in favour of the petitioner, the respondent can initiate proceedings either under Section 47-A or under Section 33 (A) of the Indian Stamp Act.

4. In view of the above submission, the impugned demand notice cannot be sustained and it is liable to be quashed. Accordingly, the impugned notice dated 06.08.2021 is quashed. The respondent is at liberty to issue notice to the concerned parties and after giving an opportunity of hearing to them, pass orders on merits and in accordance with law, with regards to the deficit stamp duty and deficit registration fees, if any.

5. In the result, this Writ Petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

kv

To

The Joint Sub-Registrar No.2,
Registration Department, Tiruppur.

+1cc to Mr.K.Govi Ganesan, Advocate SR.No.69185

+1cc to Government Pleader SR.No.69783

W.P.No.27162 of 2021

PA(CO)
GMY(12/01/2022)