THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

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THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.15740 of 2011
and M.P.No.1 of 2011

Malarvizhi .. Petitioner

Versus

1. Inspector General of Registration,
Santhome High Road,
Chennai-600 004.

2. The Additional Inspector General of Registration,
Santhome High Road, Chennai.

3. The District Registrar,
Salem (West), Salem District.

4. The Joint Sub Registrar,
Salem West, Salem District. ..Respondents

Petition 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 proceedings of the second respondent in Mu.Mu.No.11774/T1/2011 dated 11.04.2011 quash the same and consequently direct the respondents to refund the sum of Rs.5,70,374/-

For Petitioner : Mr.C.Kanagaraj

For Respondents : Mr.Yogesh Kannadasan
Spl. GP

O R D E R

The petitioner has filed this writ petition seeking to quash the order passed by the second respondent in Mu.Mu.No.11774/T1/2011 dated 11.04.2011 and to direct the respondents to refund the sum of Rs.5,70,374/-.

2. The facts of the case are as follows:

The petitioner is the Managing Director of the company viz., Varma Constructions Private Limited and the company engaged in construction of building. During the course of the business, the company purchased the lands comprised in S.No.87/1C having an extent of 7760 sq. ft. in Iyamperumapatti Village by way of sale deed dated 04.12.2006 registered as document No.3430 of 2006 from one Amirtham and others through their power of attorney. After purchasing the property, the lands were divided into plots and sold to various third parties.

3. During the year 2010, the petitioner executed a rectification deed dated 07.01.2010 registered as document No.84 of 2010 to the third respondent to make correction in the title over the property. The third respondent, vide his letter dated 21.03.2011, wherein it has stated that the transaction will not attract the provisions of Section 2 (14) of the Stamp Act and the second respondent, vide his letter dated 11.04.2011, directed the authorities to recover the alleged loss caused to the exchequer. In the meanwhile, the 4th respondent called upon the petitioner to pay a sum of Rs.5,70,374/- towards the value of the undervalued stamp duty. Without prejudice her rights, the petitioner has also paid the said amount on 23.05.2011. However, the petitioner has filed the present writ petition before this Court challenging the order passed by the second respondent dated 11.04.2011 and to return the aforesaid amount to the petitioner.

4. The learned counsel for the petitioner submitted that if the authorities arrived at a conclusion that there was a deficit stamp duty in respect of the document executed by the vendor in favour of the petitioner, they have to initiated the proceedings either under section 33(a) or 47 of the Indian Stamp Act. In the present case, the authorities have simply issued a demand notice without conducting any enquiry. Hence, the learned counsel seeks to quash the proceedings of the second respondent and allow the petition.

5. The learned Special Government Pleader appearing for the respondents submitted that the present impugned order is the preliminary notice. However, Section 33(a) proceedings were initiated by issuing the notice dated 26.04.2011 to the petitioner. However, the said proceedings will be concluded after hearing the petitioner in the manner known to law.

6. Heard the learned counsel for the petitioner, the learned Special Government Pleader appearing on behalf of the Government and perused the materials available on record.

7. Admittedly, the petitioner filed a writ petition challenging the preliminary notice issued by the respondent on the ground that there was a deficit stamp duty in respect of the property registered in favour of the petitioner. However, the learned Special government Pleader fairly submitted that the proceedings under Section 33(a) of the Indian Stamp Act has already been initiated by issuing the notice dated 26.04.2011 and the same will be concluded after providing opportunity to the petitioner.

8. In view of the above discussion, this court grants liberty to the respondents to proceed with the matter under Section 33(a) of the Indian Stamp Act, by affording opportunity to the petitioner and conclude the proceedings, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

9. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

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To

1. Inspector General of Registration,
Santhome High Road,
Chennai-600 004.

2. The Additional Inspector General of
Registration,
Santhome High Road, Chennai.

3. The District Registrar,
Salem (West), Salem District.

4. The Joint Sub Registrar,
Salem West, Salem District.

+1cc to Mr.C.Kanagaraj, Advocate SR.No.15275
+1cc to the Government Pleader, SR.No.15855

W.P. No.15740 of 2011

AJS(CO)
CB(24/03/2022)