IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.446 of 2022

K.A.Gopinath ...Appellant / Petitioner

Vs.

1.The Inspector General of Registration
Chennai 600 028.

2.The Special Deputy Collector cum District Revenue Officer (Stamps)
Chennai.

3.The Sub-Registrar
Madhavaram, Chennai. ...Respondents

Prayer : Appeal under Clause 15 of the Letters Patent against the order dated 29.11.2021 made in W.P.No.20213 of 2021.

Prayer in W.P.No.20213 of 2021 : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of mandamus, directing the respondents to release the settlement deed dated 22.03.2021 registered as Document No.2315/2021 pursuant to the proceedings of the District Revenue Officer (Stamps) vide proceedings No.Pa.Mu.Ci.Pa.No.699/21 dated 04.05.2021 and 11.06.2021 respectively within the stipulated time as that may fixed by this Court.

For the Appellant : Mr.N.Umapathi

For the Respondents : Mr.P.Muthukumar
State Government Pleader

JUDGMENT
(Judgment of the Court was delivered by
the Hon'ble Chief Justice)

The writ appeal has been filed challenging the order dated 29.11.2021 passed in the writ petition preferred by the appellant seeking a direction to release the settlement deed dated 22.03.2021.

2. The case set out by the writ petitioner shows that after registration of the document, the matter was referred under Section 47-A(1) of the Indian Stamp Act, 1899 and pursuant to the communication dated 11.06.2021, the writ petitioner paid a sum of Rs.1,10,700/- towards the deficit stamp duty. The respondents did not release the document even thereafter. Rather, they raised a demand for an additional amount of a sum of Rs.44,63,792/-. The demand aforesaid has been questioned by the writ petitioner as no opportunity of hearing was given to him.

3. Learned Government Pleader submitted that as per Section 47-A(6) itself, the Chief Controlling Revenue Authority can suo motu call for and examine an order passed under Sub-section (2) or Sub-section (3), if such order is prejudicial to the interest of the revenue. He can cause enquiry and subject to the provisions of the Act, can initiate the proceedings to revise, modify or set aside the order.

4. The case of the respondents is in reference to Section 47-A(6) of the Act of 1899. However, there is nothing on record to show any proceeding under the said provision. Rather, demand has been raised in reference to the audit objection and not after the exercise of power under Section 47-A(6) of the Act of 1899. The aforesaid was ignored by the learned Single Judge. The power under Section 47-A(6) could have been exercised by the competent authority by following the procedure and not in violation of it. In fact, no order for demand of additional amount of Rs.44,63,792/- was passed after giving an opportunity of hearing as was given earlier while passing the order under Section 47-A(1) of the Act, rather it was reflected in the encumbrance certificate.

5. In view of the above, we cause interference with the order passed by the learned Single Judge and so as the demand of the additional amount made by the respondents. Accordingly, the writ appeal is allowed. However, it is with liberty to the respondents to proceed under Section 47-A(6) of the Act of 1899 if they intend so, by following the procedure to observe principles of natural justice and for that, this judgment would not come in their way. The proceedings would be initiated only if a cause is made out and not for the reason that liberty is given by us. However, such initiation of proceedings would not be later than three months from today. It is made clear that if the proceedings is not initiated within three months, then the respondents would immediately release the document so recovered

under Section 47-A(6) of the Act. There will be no order as to costs. Consequently, CMP No.3253 of 2022 is closed.

Sd/-
Deputy Registrar(CS)

// True Copy //

Sub Assistant Registrar

kpl/drm

To:

1.The Inspector General of Registration
Chennai 600 028.

2.The Special Deputy Collector cum District
Revenue Officer (Stamps)
Chennai.

3.The Sub-Registrar
Madhavaram, Chennai.

+3ccs to M/s.N.Umapathi, Advocate Sr.No.29854

+1cc to the Government Pleader Sr.No.30630

W.A.No.446 of 2022

AK-II(CO)
RVM(12/05/2022)