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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.17422 of 2013
and M.P.No.1 of 2013

Mohaideen Pitchi Vappa Trust
rep.by its Secretary M.Kasim ... Petitioner

Vs.

1.The Sub Registrar,
Kamudhi,
Ramanad District,
Tamil Nadu.

2.The Inspector General of Registration,
No.100, Santhome High Road,
Mylapore, Chennai 600 004.

... Respondents

PRAYER: This Writ Petition filed under Section 226 of Constitution of India, pleaded to issue a Writ of Certiorari to call for the entire records relating to the Document No.35/2012 and quash the Attachment Order dated Nil with SRO, Kamuthi.

For Petitioner : Mr.T.G.Brusly Gopal

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

Order

This petition has been filed for issuance of writ of Certiorari to call for the Attachment Order dated Nil with SRO, Kamuthi.

2. The case of the petitioner is that he is the Secretary of the Mohideen Picthi Vaapa Trust and the same has been duly registered as Doc.No.35/2012 and the 1st respondent collected a sum of Rs.1000/- as a fixed stamp duty and Rs.100/- as registration fees and the petitioner Society also paid the



relevant stamp duty. After a lapse of 11 months, the 1st respondent issued a letter calling upon the petitioner to pay a sum of Rs.1,75,000/- as a stamp duty, without adducing any valuable reason and afterwards, the petitioner also received an attachment order from the 1st respondent, calling upon them to pay a sum of Rs.1,70,115/- on or before 24.05.2013. Aggrieved by the same, the present writ petition is filed.

3. The learned counsel appearing for the petitioner submitted that prior to the impugned notice, no notice or proceedings were issued either under Section 33 or 47A of the Stamp Act, however the official respondents straight away issued the impugned order for attachment, which is non est in the eye of law and prays for quashment of the same.

4. The learned Special Government Pleader appearing for the official respondents has drawn the attention of this Court to the counter affidavit and submitted that the petitioner was required by the respondent only to pay the deficit stamp duty and registration fee due on the petitioner's document and as laid down in the Stamp Act, all duties, penalties and other sums required to be paid under Chapter IV of the Stamp Act, are recoverable from the persons concerned. Further, he submitted that notices were sent to the petitioner from the office of the 1st respondent to remit the deficit stamp duty.

5. This Court has carefully considered the rival submissions and also perused the materials placed before it.

6. This Court has perused the entire counter affidavit filed by the official respondents, however the same did not reveal as to whether the respondents initiated proceedings for collection of stamp duty either under 33 or 47A of the Indian Stamp Act and further the counter is silent as to the action taken for collection of deficit stamp duty and no particulars were also produced before this Court for initiating action either under Section 33A or 47A of the Indian Stamp Act. In the absence of such proceedings, demanding the said amount directly by way of the impugned order is not sustainable and hence it is liable to be quashed.

7. For the reasons aforesaid, this Writ Petition is allowed and the Attachment Order dated Nil with the Sub Registrar Office, Kamuthi, is hereby set aside. However liberty is granted to the respondents to initiate appropriate proceedings under Section 33 or 47A of the Indian Stamp Act, by following the due process of law. Further, the period during which the petition



pending before this Court is excluded for the purpose of computation of limitation period while initiating proceedings. No costs. Consequently connected miscellaneous petition is closed.

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SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

1.The Sub Registrar,
Kamudhi,
Ramanad District,
Tamil Nadu.

2.The Inspector General of Registration,
No.100, Santhome High Road,
Mylapore, Chennai 600 004.

+lcc to the Government Pleader Sr.29695

W.P.No.17422 of 2013

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srg 30/05/2022