



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.17159 of 2010

and

MP Nos.1 and 2 of 2010

1. S. Ramasamy
2. R. Sankarababu
3. M.Jayaprakash Narayanan
4. M. Sankaranarayanan
5. M.Radhakrishnan (Deceased)
6. M.Suryanarayanan
7. Sudha Radhakrishnan
8. Harshini Radhakrishnan
9. Vikashni Radhakrishnan

P7 to P9 were substituted as LRs
of the deceased petitioner P5
vide order of this Court
dated 24.03.2022 in WMP No.6247 of 2022

.... Petitioners

Versus

1. The Inspector General of Registration
No.100, Santhome High Road,
Chennai - 600 028.
2. The Sub Collector (Stamps)
Collectorate Compound
Coimbatore 18.
3. The Gandhipuram Sub-Registrar,
Gandhipuram, Coimbatore.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari calling for the records pertaining P.mu No.42228/vu 1/2002, dated 08.04.2010 on the file of the 1st respondent herein and to quash the same.



For Petitioners :Mr.K.Harishankar
For Respondents :Mr.Yogesh Kannadasan
Spl. Govt. Pleader

WEB COPY

ORDER

The prayer sought for in this writ petition is for quashment of records pertaining P.mu No.42228/vu 1/2002, dated 08.04.2010 on the file of the 1st respondent.

2. It is the case of the petitioners that originally properties belonging to one Krishna Rao have been purchased by the respective petitioners from different vendors, which were registered by way of 14 Sale deeds viz., Documents No.3065/2000, 3071/2000, 3150/2000, 85/2001, 174/2001, 264/2001, 1891/2001 3066/2000. 3072/2000, 3151/2000, 86/2001, 175/2001, 265/2001 and 1892 of 2001. Thereafter, on payment of necessary stamp duty as well as registration charges, the 2nd respondent passed the proceedings under Section 47A(1) of the Registration Act and released the documents in the year 2001 itself. While so, after a lapse of five years in the year 2006, the 1st respondent re-opened the said proceedings and issued a demand notice on 02.08.2006. Subsequently, the petitioners have filed their written submissions before the 1st respondent. But without considering the same, the impugned order has been passed by the 1st respondent directing the petitioners to pay the deficit stamp duty. Aggrieved over the same, this writ petition has been filed by the petitioners.

3. Learned counsel for the petitioners submits that only after due inspection of properties and scrutinization of records, the 2nd respondent fixed the value and registered the same under Section 47A(1) of the Registration Act. He further submitted that out of 14 documents, the 1st respondent initiated suo moto proceedings for eight documents, for which he has no power as the same were initiated against the petitioners without issuing notice under Section 47A(2) and (3), that too after the expiry of the time limit prescribed under the Act, which is non est in law. Furthermore, he submitted that the written submissions as well as documents filed by the petitioners have not been taken into consideration in the proper perspective. On the aforesaid score, he prays before this Court for allowing of this writ petition.

4. Per contra, Mr.Yogesh, Kannadasan, learned Special Government Pleader for respondents placed his submissions based on the counter, narrating that the petitioners purchased properties from various vendors. Subsequent to registration, while auditing, the authorities have pointed out anomalies in



the determination of value and based on the audit report, the 1st respondent has initiated 47A(6) proceedings. He further submitted that the 2nd respondent / statutory authority has determined the value and orders were issued for eight documents commencing from the year 2000 and the last document was in the year 2002. He further submitted that after issuance of show cause notice on 02.08.2006, the 1st respondent passed the orders for eight documents, which is within his purview. Hence, the orders passed by the 1st respondent ordering the petitioners to make payment of deficit stamp duty, registration fee along with interest is sustainable and warrants no interference of this Court.

5. Heard the learned counsel on either side and perused the materials placed on record.

6. It is an admitted fact that one Krishna Rao is the owner of a larger extent of lands. It is also not in dispute that after his demise, his Legal Heirs sold the undivided share of land and superstructure in favour of petitioners by way of 14 documents and out of which respondents initiated proceedings under Section 47-A of the Registration Act as against 8 documents alone. It is the contention of the petitioners that the subject properties were inspected by the 2nd respondent and after due verification, they paid the necessary stamp duty as well as registration costs, whereas, it is clear from the reply submitted by the other side that during the time of audit alone, it came to the knowledge of the 1st respondent about the under-valuation of stamp duty in respect of subject properties which resulted in the passing of the impugned order. Further, it is the contention of the petitioners that after the expiry of the period of limitation prescribed under the Registration Act, without affording opportunity to them, all of a sudden the impugned order was passed.

7. On a careful perusal of counter and other documents, it reveals that without initiating proceedings under Section 47-A, straight away, the 1st respondent / revisional authority passed the suo moto order, which is unsustainable in the eye of law. Further, the counter is silent in respect of opportunity afforded to the petitioners prior to initiation of the impugned order. More so, in the absence of any documents to show that Proceedings were initiated under Section 47A(2) and (3) against the petitioners by issuing requisite notice and the same has been served to the petitioners, passing of the impugned order is illegal. There is total violation of principles of natural justice and the petitioner has been denied of an opportunity to submit his side of the case. Therefore, the impugned order suffers the vice of perversity and illegality and the same deserves to be set aside.



8. For the aforesaid reasons, this Court is inclined to set aside the order passed by the 1st respondent and accordingly, the impugned order passed by the 1st respondent in P.mu No.42228/vu 1/2002, dated 08.04.2010 is hereby set aside.

WEB COPY

9. In the result, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Inspector General of Registration
No.100, Santhome High Road,
Chennai - 600 028.

2. The Sub Collector (Stamps)
Collectorate Compound
Coimbatore 18.

3. The Gandhipuram sub-registrar,
Gandhipuram,Coimbatore.

+2ccs to Mr.K.Harishankar, Advocate, S.R.No.26695

+1cc to the Government Pleader, S.R.No.27315

W.P. No.17159 of 2010

SS[co]

NSK/31/05/2022