IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NOS.19278 AND 19279 OF 2013

Perumal ... Petitioner in W.P.19278 of 2013

Amirthalingam ... Petitioner in W.P.19279 of 2013

.Vs.

1. The Sub-Registrar,
   Veerapandi,
   Salem.

2. The Tahsildar,
   Salem.

3. The Special Deputy Collector,
   (Stamp Duties),
   Salem - 636 001.

4. The District Collector,
   Salem. ... Respondents in W.P.19278 of 2013

1. The Sub-Registrar,
   Veerapandi,
   Salem.

2. The Special Deputy Collector,
   (Stamp Duties),
   Salem.

3. The District Collector,
   Salem. ... Respondents in W.P.19279 of 2013

COMMON PRAYER:-

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the order passed by the second respondent and subsequently the same was communicated by the first respondent in respect of the document Nos.2282/2004 and 1691/2002 respectively, on the file of first respondent and quash the same and consequently direct the respondents to return the document Nos.2282/2004 and 1691/2002 respectively, on the file of first respondent to the petitioners.

IN BOTH CASES

For Petitioners : Mr.T.Ganesan

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

C O M M O N O R D E R

Since the issue involved in these writ petitions are one and the same, they are heard together and disposed of by way of a common order.

2. The petitioners have filed these writ petitions seeking to quash the order of attachment passed by the respective second respondent and to return document Nos.2282/2004 and 1691/2002 respectively, withheld by the first respondent to the petitioners.

3. The case of the petitioners is that the petitioners purchased agricultural lands vide document Nos.2282/2004 and 1691/2002. They presented their documents for registration, however, their documents were withheld by the first respondent on the ground that there was deficit in the stamp duty and registration fees for registering the documents. Thereafter, they received order of attachment from the respective second respondent. Challenging the same, the present writ petitions have been filed.

4. The learned counsel appearing for the petitioners submitted that though the petitioners documents were released at the relevant point of time, the respondents issued Form I notice and thereafter they issued samadan notice, however, without conducting any enquiry under Section 47 A or 33 A of the Indian Stamp Act, the revenue recovery proceedings came to be initiated which is not sustainable.

5. The learned Special Government Pleader appearing for the respondents submitted that in respect of the petitioner in W.P.No.19278 of 2013 is concerned Form – I notice was issued on 09.10.2004 by the third respondent to remit the deficit stamp duty and registration fees of a sum of Rs.88,384/-. Thereafter, samadan notice was issued by the first respondent to remit a sum of Rs.59,680/- alone. He further submitted that some concession in stamp duty was given to the petitioner under Samadan Scheme, however, he failed to avail the opportunity.

6. The learned Special Government Pleader appearing for the respondents further submitted that in respect of the petitioner in W.P.No.19279 of 2013 is concerned Form – I notice was issued to the petitioner on 24.12.2002. Thereafter, samadan notice was issued by the first respondent on 05.01.2005 informing the petitioner to remit a sum of Rs.44,617/-. Thereafter Form – II notice was sent by the second respondent on 10.04.2006. He further submitted that the petitioner failed to avail the opportunity under Samadan Scheme.

7. The learned Special Government Pleader appearing for the respondents further submitted that the petitioners without challenging the initial proceedings, have challenged the consequential proceedings which is not sustainable one.

8. Heard the arguments advanced on either side and perused the materials available on record.

9. Admittedly, the petitioners documents were withheld by the first respondent since there was deficit in stamp duty and registration charges. Form – I notice has been sent to the petitioners and samadan notice has also been to them. The petitioners have neither paid the amount nor challenged the Form – I notices issued to them. However, they have challenged the revenue recovery proceedings initiated against them.

10. In view of the above, this Court is not inclined to grant the relief sought for in these writ petitions. These writ petitions are accordingly dismissed. However, liberty is granted to the petitioners to work out the remedy in the manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Sub-Registrar,
Veerapandi,
Salem.

2. The Tahsildar,
Salem.

3. The Special Deputy Collector,
(Stamp Duties)
Salem - 636 001.

4. The District Collector,
Salem.

+2ccs to Mr.T.Ganesan, Advocate, S.R.Nos.17890 & 17891
+1cc to the Government Pleader, S.R.No.18341

W.P.NOS.19278 AND 19279
OF 2013

MG(CO)
PBS/05/04/2022