



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.4942 of 2022

and

W.M.P.Nos.5084, 5085 and 5086 of 2022

1. Ambika Balakrishnan
2. Radhika Balakrishnan
3. Rema Swaminathan

...Petitioners

vs.

The Sub Registrar,
Purasaiwalkam,
Chennai - 600 007.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for records relating to the impugned order of the respondent in Na.Ka.No.32/2022 dated 25.01.2022 and quash the same.

For Petitioners : Mr.P.Rajendran

For respondent : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This writ petition has been filed seeking for issuance of a Writ of Certiorari to call for the records relating to the impugned order of the respondent in Na.Ka.No.32/2022 dated 25.01.2022 and quash the same.

2. The case of the petitioners is that the property measuring an extent of 2970 sq.ft. situated in Perambur High Road, Perambur, Chennai-600 012 originally belonged to the petitioners grandfather one P.P.Ramachandran thereafter by way of a settlement deed, the same was settled in favour of his legal heirs, namely one K.Balakrishnan and one Rema Swaminathan, on 20.06.2011, vide Document No.2284 of 2011 on the file of Sub Registrar, Purasaiwalkam and they entered into a Joint Development Agreement dated 08.07.2011 with one M/s. EGB



Builders & Architects Private Limited for development of the said property into a residential complex consisting of 5 flats under a Scheme of Joint Development and two flats were allotted to the legal heirs of the said P.P.Ramachandran and 3 flats to the builder. Thereafter, Balakrishnan died on 23.03.2019 leaving behind the legal heirs, the 1st and 2nd petitioners herein. Thereafter, the petitioners 1,2 i.e., legal heirs of said Balakrishnan and 3rd petitioner i.e., sister of Balakrishnan, entered into a partition deed dated 19.07.2021 and the same was registered by way of payment of Stamp Duty. While so, they decided to sell the flat which was allotted to them and accordingly, they sold the same by a Sale Deed dated 09.09.2021. While so, the respondent herein issued an order vide proceedings Na.Ka.No.32/2022 dated 25.01.2022 calling upon the petitioners to pay Stamp Duty at 4% of the value of the property within a period of 15 days. Aggrieved by the said proceedings the petitioners have come up with the present Writ Petition seeking the aforesaid relief.

3. The learned counsel for the petitioners submits that if the 1st and 2nd petitioners undervalued the property to the third parties, the respondent has to initiate proceedings under Section 47 A of Indian Stamp Act, 1899, without initiating the same the impugned demand made by the respondent is not sustainable.

4. The learned Special Government Pleader appearing for respondent submits that before initiating, Section 47 A proceedings, in order to ascertain the willingness for payment of stamp duty, the preliminary notice was issued to the petitioners. Since the petitioners were aggrieved to pay the demanded amount, the respondent herein forwarded the same to the District Collector for initiation of proceedings under Section 47 A. This Court may set aside the preliminary notice and allow the petitioner to participate in Section 47 A proceedings initiated against the petitioner.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. The facts in the present case are not in dispute. The impugned demand is only a preliminary notice and the learned Special Government Pleader fairly submitted that Section 47 A proceedings will be initiated, and in view of the above, impugned demand is set aside and liberty is granted to the respondent to initiate Section 47 A proceedings in the manner known to law. If such proceedings are initiated, opportunity of hearing shall be given to the petitioner and aggrieved persons if any.



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7. Accordingly, this Writ Petition is disposed of. No costs.
Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rap/nhs

To

The Sub Registrar,
Purasaiwalkam,
Chennai - 600 007.

+1cc to Mr.P.Rajendran, Advocate, S.R.No.1518

+1cc to the Government Pleader, S.R.No.15859

W.P.No.4942 of 2022

MT (CO)
SU (08/04/2022)