

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.4755 of 2022
and W.M.P.No.4865 of 2022

Narayanasamy

...Petitioner

Vs.

1.The District Registrar,
The Registrar Office,
Tiruppur District.

2.The Sub Registrar,
Dharapuram, Tiruppur District.

...Respondents

PRAYER: The Writ Petition filed under Section 226 of Constitution of India, pleased to issue a Writ or direction or order more particularly in the nature of Writ of Certiorari to call for the records pertaining to the impugned notice of the 2nd respondent in 10,11/2019 Internal Audit dated 28.07.2020 and to quash the same as illegal and non est in law.

For Petitioner : Mr.M.Guruprasad

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

O R D E R

Writ Petition has been filed for issuance of writ of Certiorari to call for the records pertaining to the notice of the 2nd respondent in 10,11/2019 and to quash the same.

2. The petitioner is the resident of Vadugapalayam Village, Dharapuram Taluk, Tiruppur District and the his father K.P.krishnamoorthy had obtained the scheduled properties by way of a partition deed and he was allotted properties in S.F.No.1227, 1228, 1199, 1200, 1338A, 1338B, 1240, 1230 in the Vagudapalayam Village and other house plots No.129, 897, 846 and the same is registered before the 2nd respondent. While so, the petitioner's father, Sister and the petitioner constitute 1/3rd

share in the schedule property and thereafter, his father and sister decided to release their 1/3rd share of the property in favour of the petitioner by receiving a sum of Rs.2,00,000/- each and thereby, they have executed a release deed in favour of the petitioner. Thereafter the petitioner approached the 2nd respondent to register the above said release deed and the same was registered after complete scrutinization. While such being the position, after a period of 8 months, the 2nd respondent sent the impugned notice, thereby informed to pay the deficit stamp fee and registration fee in total of Rs.9,28,627/- and thereafter has sent a reminder dated 01.09.2020 for the impugned notice. Aggrieved by the same, the petitioner is before this Court to quash the impugned order.

3. The learned counsel appearing for the petitioner submitted that if there is a deficit stamp duty, the respondents have to take initial action either under Section 33-A or under Section 47A of the Indian Stamp Act, 1899, however without following the procedures contemplated under the Act, straight away issued the impugned order, demanding the deficit stamp duty, is not sustainable and hence prays for appropriate orders.

4. In compliance of the earlier order of this Court, the 1st respondent viz., R.Ramasamy, District Registrar, Tirupur and the 2nd respondent viz., V.Kannan, Sub Registrar, Dharaporam, Thirupur CD-I, are present before this Court for rendering necessary assistance.

5. The learned Special Government Pleader, on instructions from the said officials, who appeared in person before this Court, conceded that without initiating proceedings under Section 33A of the Stamp Act, the District Registrar has straight away issued the impugned order dated 28.07.2020 and therefore it is not sustainable and this Court may set aside the impugned order and permit the respondents to initiate proceedings in accordance with the Stamp Act.

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

7. Considering the facts and circumstances of the case and further the 1st respondent appeared before this Court and submitted that without initiating proceedings under the Stamp Act, straight away the present impugned order is passed, which is liable to be set aside.

8. Recording the said submission, this Writ Petition is allowed and the impugned order dated 28.07.2020 in No.10,11/2019, is set aside and, the respondents are directed to initiate proceedings against the petitioner as per the relevant provision of the Indian Stamp Act, after following the due process of law. No costs. Consequently connected miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The District Registrar,
The Registrar Office,
Tiruppur District.

2.The Sub Registrar,
Dharapuram, Tirupur District.

+1 CC to Mr.M.Guruprasad, Advocate sr 20832.
+1 CC to The Government Pleader sr 21362.

W.P.No.4755 of 2022

GPL(CO)
SP(09/05/2022)