



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25247 of 2013

And

W.M.P.No.10496 of 2019

A.Balasubramaniam

... Petitioner

Vs.

1.The District Registrar of Registration,
Namakkal,
Namakkal District.

2.The Joint Sub-Registrar, No.I,
Office of the District Registrar,
Namakkal,
Namakkal District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the impugned notice issued by the second respondent dated 28.01.2013 No.NIL and quash the same.

For Petitioner : Mr.C.Jagadish

For Respondents : Mr.Nilakandan
Additional Advocate General
Assisted by
Mr.Yogesh Kannadasan
Special Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for the records pertaining to the impugned notice issued by the second respondent dated 28.01.2013 and to quash the same.

2.The case of the petitioner is that the second respondent issued the impugned notice of demand on the ground that a



document for partition bearing no.5570/11 was registered and withdrawn and during audit objections, it was found that deficit stamp duty and deficit registration charge has not been paid. Aggrieved by the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner submitted that if the respondent feels that there is any violation, the respondent ought to have issued notice under Section 47 A or 33 A of the Indian Stamp Act and without doing so, the respondent has issued the impugned notice of demand which is un-sustainable one.

4.The learned Additional Advocate General appearing for the respondents fairly conceded that without issuing notice under Section 47 A or 33 A of the Indian Stamp Act, the second respondent straight away issued the impugned notice. However, the respondents are inclined to initiate proceedings as against the petitioner either under Section 47 A or under Section 33 A of the Indian Stamp Act, within a reasonable time frame.

5.Considering the fact that the present impugned notice was issued without invoking the procedure contemplated under the Indian Stamp Act, i.e., without issuing notice under Section 47 A or 33 A of the Indian Stamp Act, this Court is inclined to set aside the impugned notice.

6.Accordingly, the impugned notice of demand dated 28.01.2013 is set aside. The respondents are at liberty to proceed as against the petitioner either under Section 47 A or under Section 33 A of the Indian Stamp Act, within a period of twelve weeks from the date of receipt of a copy of this order. The respondents shall conduct enquiry and shall pass appropriate orders, after providing opportunity to the petitioner. The period during the pendency of this writ petition is excluded for the purpose of limitation.

7.The writ petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

//True copy//

Sub Assistant Registrar

pri



To

1.The District Registrar of Registration,
Namakkal,
Namakkal District.

2.The Joint Sub-Registrar, No.I,
Office of the District Registrar,
Namakkal,
Namakkal District.

+1cc to Mr.C.Jagadish, Advocate SR.No.27092

+1cc to Government Pleader SR.No.28142, 27560

W.P.No.25247 of 2013

And

W.M.P.No.10496 of 2019

SKM(CO)
GMY(04/05/2022)