THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NOS.31643 AND 31644 OF 2012
AND
M.P.NOS.1 AND 1 OF 2012

S.Vasanthi
... Petitioner in W.P.31643/2012

E.Selvaraj
... Petitioner in W.P.31644/2012

Vs.

1. The Sub Registrar – Joint 1,
   Office of the Sub Registrar,
   Namakkal.

2. The Special Collector (Stamps),
   Office of the District Collector,
   Salem,
   Salem 636 001.

3. The Tahsildar / II Class Magistrate,
   Namakkal.

... Respondents in both the W.Ps.

Common Prayer:

Petitions filed under Article 226 of the Constitution of India to issue a Writs of Certiorari calling for the entire records relating to passing of the impugned order dated 16.11.2012 under reference SR Nos.431 and 433 of 2001 respectively, for the document Nos.673 of 2000 NK1 and 666 of 2000 NKL1 respectively, quash the same.

For Petitioners : Mr.S.Muthukumar

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

COMMON ORDER

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 challenging the revenue recovery proceedings initiated by the Revenue Officials at the instance of the Registration Department. The petitioners purchased properties through different sale deeds and for non payment of the deficit stamp duty, the Registration Department issued distraint order against the petitioners and the same was forwarded to the Revenue Officials for collecting the deficit stamp duty under the Revenue Recovery Act.

3.The learned counsel appearing for the petitioners submitted that till date no notice was issued to the petitioners under Section 47 A or 33 A of the Indian Stamp Act and without conducting adjudication as per law, exparte order was drawn as against the petitioners and the same was forwarded to the Revenue Officials for collecting deficit stamp duty under the Revenue Recovery Act, which is clear violation of principles of natural justice.

4.The learned Special Government Pleader appearing for the respondents fairly conceded that there is no acknowledgement available to substantiate that notice under Section 47 A of the Indian Stamp Act have been served on the petitioners. However, he submitted that there is appeal remedy available to the petitioners before the Inspector General of Registration under Section 47 A of the Act.

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

6.The facts in the present case is not disputed. Admittedly, the petitioners purchased properties vide document Nos.673 of 2000 and 666 of 2000 respectively. The petitioners claim that before initiation of proceedings under Section 47 A of the Indian Stamp Act, revenue recovery proceedings were initiated by the Revenue Officials at the instance of the Registration Department. The learned Special Government Pleader appearing for the respondents fairly conceded that there is no acknowledgement available to substantiate that notice under Section 47 A of the Indian Stamp Act have been served on the petitioners. Hence, the impugned orders have been passed in clear violation of principles of natural justice.

7.Hence, in the interest of justice, the impugned orders dated 16.11.2012 are set aside and the matter is remanded back to the second respondent for fresh consideration. The second respondent is directed to initiate proceedings under Section 47 A of the Indian Stamp Act as against the petitioners and after complying with all the formalities and after affording opportunity to the petitioners, shall pass appropriate orders in accordance with law. The period of limitation is excluded for initiating proceedings under Section 47 A of the Act for the purpose of complying with the principles of natural justice.

8.At this juncture, the learned counsel appearing for the petitioners submitted that the petitioners have paid the amount demanded in the impugned order.

9.The amount paid by the petitioners, if any, shall remain in the custody of the second respondent and it is subject to the result of the orders that is to be passed by the second respondent after conclusion of the proceedings under Section 47 A of the Indian Stamp Act.

10.These writ petitions are disposed of with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To
1. The Sub Registrar - Joint 1,
   Office of the Sub Registrar,
   Namakkal.
2. The Special Collector (Stamps),
   Office of the District Collector,
   Salem, Salem 636 001.
3. The Tahsildar / II Class Magistrate,
   Namakkal.

+2ccs to Mr.K.Kuppusamy, Advocate, S.R.No.15003, 15004
+1cc to the Government Pleader, S.R.No.15854

W.P.Nos.31643 and 31644 of 2012
And M.P.Nos.1 and 1 of 2012

GPL(CO)
RLP(31/03/2022)