



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.22792 of 2014
and
M.P.Nos.1, 2 & 3 of 2014

Mr.Mohammed S.Lehry

...Petitioner

Vs.

1. The District Revenue Officer (Stamps),
Collector Office, Chennai-1.
2. The Tahsildar,
46, Chamiers Road, R.A.Puram,
Chennai-600 028.
3. The Sub Registrar,
North Chennai,
Rajaji Salai, Chennai.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent herein dated 26.11.2008 and quash the same and direct the respondents herein to issue from II to make final assessment order in respect of the sale deed dated 13.05.2002 registered as document in 155 of 2002.

For Petitioner : Mr.Samir Shah
for M/s. Shah and Shah

For Respondents R1 & R3 : Mr.T.Chezhiyan
Additional Government Pleader

For Respondent R2 : Mr.Yogesh Kannadasan
Special Government Pleader

O R D E R

The petitioner filed this writ petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent dated 26.11.2008 and quash the same and consequently to direct the respondents herein to issue form II to make final assessment order in respect of the sale deed dated 13.05.2002 registered as Document in 155 of 2002.



2. The case of the petitioner is that, he purchased an immovable property at Door No.51/3, Old No.25/3, Armenian Street, George Town, Chennai-1 for a total consideration of Rs.15,00,000/- and the sale deed was executed in favour of the petitioner. After paying the necessary stamp duty and registration fee, the document was presented for registration before the Sub Registrar and the same was registered and assigned number as Document No.155 of 2002. After registration, the Sub-registrar referred the said document under Section 47-A of the Indian Stamp Act to determine the deficit Stamp duty of the said property. While so, the petitioner received a notice dated 05.07.2002 from the 1st respondent, directing the petitioner to represent the matter before the Collector. Therefore, the petitioner approached the 1st respondent and submitted a letter. Thereafter, the petitioner received another notice dated 20.02.2003, stating that the land value has been fixed at Rs.3,475/- and accordingly demand is made for further payment of Rs.4,59,992/-.

3. Aggrieved by the said exorbitant demand, the petitioner and his family members filed W.P.Nos.20616 & 20640 of 2007 and the same were allowed by a common order dated 22.03.2010 and notice dated 21.02.2007 issued by the 2nd respondent was declared as illegal and the 1st respondent was directed to serve Form II and final assessment order. Pursuant to the order of this Court, Form II notice was issued to one Master Irfan A. Lehry and Mrs. Yasmin A. Lehry in respect of Document Nos.157 and 158 of 2002 and subsequently final assessment orders were also passed, however, the said procedure was not adopted so far as the petitioner is concerned. The petitioner received a notice dated 26.11.2008 from the 2nd respondent, stating that an amount of Rs.4,59,992/- was due from the petitioner with interest at 2% per month from 21.04.2003. While such being the case, the 2nd respondent went to petitioner's shop and threatened the Manager and collected a sum of Rs.4,59,992/- on 31.01.2009. Even on receipt of the said amount, the 1st respondent has not released the document / sale deed in favour of the petitioner. Hence, challenging the demand notice dated 26.11.2008, the present Writ petition is filed.

4. The learned counsel appearing for the petitioner submits that, the 1st respondent has failed to serve the final assessment order upon the petitioner, due to which the petitioner was unable to file appeal against the same. He further submits that the 3rd respondent is demanding the petitioner to pay the exorbitant interest at the rate of 24% per annum from 21.04.2003 which is against the provisions of the Act and also the order was passed without hearing the petitioner. Hence, he prays that this Court may quash the impugned notice dated 26.11.2008 issued by the 2nd respondent and consequently direct the respondents to



any other forum. Hence, challenging the subsequent demand notice dated 26.11.2008 is not sustainable one. Hence, this Court is not inclined to interfere with the impugned order.

10. However, the petitioner is at liberty to pay the interest of 2% per month from 21.04.2003 to 31.01.2009 alone for the amount of Rs.4,59,992/- within a period of eight weeks from the date of receipt of a copy of this order, failing which the 2nd respondent is directed to proceed with the matter in accordance with law. On receipt of the interest amount, the respondents are directed to release the documents / sale deed in favour of the petitioner.

11. This Writ Petition is disposed of with the aforesaid direction. No cost. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

skt
To

1. The District Revenue Officer (Stamps),
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2. The Tahsildar,
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3. The Sub Registrar,
North Chennai,
Rajaji Salai, Chennai.

+1 cc to Government Pleader Sr.NO. 8324,8349

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mt(CO)
A.SK(30/03/2022)