IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.7449 of 2016

R.Shanmugaraja ... Petitioner

Vs.

1.The Principal Secretary to Government,
Commercial Taxes and Registration Department,
Fort St. George,
Chennai – 600 009.

2.The Principal Secretary to Government,
Revenue Department,
Fort St. George,
Chennai – 600 009.

3.The Principal Secretary and
Commissioner for Revenue Administration,
Ezhilagam, Chepauk,
Chennai – 600 005.

4.The Inspector General of Registration,
Chennai.

5.The Special Deputy Collector (Stamps),
Cuddalore District,
Cuddalore. ... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the reference sent to the 3rd respondent by the 4th respondent in K.Dis.50085/D1/2015 dated 30.01.2015 and quash the same and consequently direct the 4th respondent to refund the sum of Rs.4,27,533/- in terms of Sub Section 6 of Section 47(A) of the Indian Stamp Act, 1899.

For Petitioner : Mr.V.Venkatesh

For Respondents : Mr.M.Rajendiran
Additional Government Pleader

ORDER

The rejection of the claim of the writ petitioner to refund the recovered financial loss to the State exchequer to the tune of Rs.4,27,533/- is under challenge in the present writ petition.

2.The writ petitioner joined as Junior Assistant in the Revenue Department and he was promoted up to the cadre of Deputy Collector and he was posted as Special Deputy Collector (Stamps) at Cuddalore District in the year 2013. A Document bearing Registration No.1421 of 2012 was forwarded under Section 47(A) of the Indian Stamp Act, 1899 by the Joint Sub Registrar, Office of the District Registrar, Cuddalore for fixing up market value as the instrument was found to be under-valued in terms of Guideline issued by the Registration Department. With reference to the fixation of market value, certain allegations were raised against the writ petitioner and the financial loss to the State exchequer was traced out. The petitioner without any protest, deposited the financial loss at the time of his retirement on 31.10.2014. It is not in dispute that the petitioner had deposited the financial loss as assessed by the Department without raising any dispute. After retirement and after a lapse of more than a year, the petitioner has chosen to file the present writ petition seeking a direction to refund the deposited amount.

3.The respondents have stated that sale document bearing Registration No.1421/2012 was forwarded to the Special Deputy Collector (Stamps) at Cuddalore by Joint I Sub Registrar, Cuddalore vide Ref.No.28 of 2012 dated 14.05.2012 to take action under Section 47A(1) of Indian Stamp Act 1899 for the following reason. The guideline value for the property pertained to the above deed is Rs.4310/- per Square meter, but value adopted in the document by the party is Rs.1718.75 per Square meter. Hence, the document is to be referred under Section 47A(1) for fixation of true market value. Previously, there is a sale document bearing Registration No.56/2008 referred under Section 47A(1) for fixation for true market value. The property recited in this deed is one and the same for the document No.1421/2012 and the Guideline Value of Rs.4310/- per Square meter was accepted by the party without any objection and so the document was returned after collecting the deficit Stamp duty of Rs.506576+ interest Rs.35462/- total Rs.542038/- on 04.07.2013. This colection was made by the Special Deputy Collector (S) Cuddalore, who is the petitioner of this writ petition. But on contrary he fixed market value at Rs.3235/- per Sq.mtr for the same property, thus leading to revenue loss of Rs.427533/- to the Government.

4.The respondents further stated that if a document is presented for registration not accepting the guideline value, it should be registered and sent to SDC (Stamps) for fixation of market value. Hence, the Sub Registrar has referred the Document No.1421/2012 under Section 47A(1). The market value of any property shall be estimated to be the price which, in the opinion of the Collector or the Chief Controlling Revenue Authority or the High Court, as the case may be, such property would have fetched or would fetch, if sold in the open market on the date of execution of the instrument of conveyance, exchange, gift, release of benami right of settlement. In this context SDC (Stamps) should have adopted the valuation fixed already for the same property which was under reference to him. He has already fixed Rs.4310/- per Sq.Meter for the property pertained to the document but he has ignored the above fixation and fixed Rs.3235/- for this document No.1421/2012 which is an apparent error that led to a revenue loss Rs.4.27 Lakhs. Under the orders of Deputy Inspector General of Registration, Cuddalore, the District Registrar (Admin), Tindivanam has conducted as audit an the records of SDC (Stamps) for months from September 2013 to December 2013 and revenue loss of Rs.4.27 Lakhs was detected by him and a special report was submitted to Inspector General of Registration on the eve of the retirement of the writ petitioner.

5.The above facts and circumstances reveals that pursuant to the orders of the Deputy Inspector General of Registration, Cuddalore, an audit was conducted and the revenue loss of Rs.4.27 Lakhs was also detected by the audit party. Based on the special report, action was initiated against the writ petitioner and the writ petitioner also deposited the financial loss caused to the State exchequer during the relevant point of time before his retirement. Once the petitioner accepted the financial loss and deposited the amount, now he cannot turn around and file a writ petition seeking refund of the said amount. Such a conduct of the erstwhile responsible Government official cannot be appreciated by this Court. If at all the petitioner was not responsible, he ought to have agitated the matter during the relevant point of time when the audit objection was raised. However, he paid the amount and after retirement, now has chosen to file a writ petition seek refund and this Court is of the considered opinion that there is no infirmity in respect of the order of rejection passed by the respondents. The petitioner attained the age of superannuation and retired from service and now he cannot seeking the relief for refund of the financial loss which was deposited by him, while he was in service. Thus the petitioner has not established any acceptable ground for the purpose of interfering in the order impugned.

6.Accordingly, this writ petition stands dismissed. No Costs.

10.10.2022

Index:Yes/No
Internet:Yes/No
Speaking order/Non-speaking order
ssr

To

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Cuddalore.

S.M.SUBRAMANIAM, J.

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