IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.25859 of 2014
and
MP No.1 of 2014

S. Ahamed Famitha ... Petitioner

Versus

1. The Inspector General of Registration,
100, Santhome Road,
Pattinapakkam,
Chennai - 600 028.

2. The District Registrar (Administration),
Office of the District Registrar of Registration,
Coimbatore. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari, calling for the records of the 2nd respondent by proceedings in No.1330/A1/2013 dated 09.09.2014 and quash the same.

For Petitioner : Mr.P. Saravana Sowmiyan

For Respondents: Mr.Yokesh Kannadasan
Spl. Govt. Pleader

ORDER

This writ petition has been filed to quash the proceedings in No.1330/A2/2013, dated 09.09.2014 issued by the 2nd respondent.

2. The case of the petitioner is that her Grand Father T.M. Abdul Azeez has executed a Settlement Deed dated 21.02.2012 in her favour by settling certain properties mentioned in the affidavit filed in support of this writ petition and the same was registered as Document No.955 of 2012 on the file of Joint Sub-Registrar, Coimbatore. It is averred that she is the daughter of the said T.M.Abdul Azeez's brother's son. Her Grand Father died on 27.12.2012 and his wife predeceased him and they have no issues. While that being so, pursuant to the representation of one T.S. Mohammed Yaseen, all of a sudden, the

2nd respondent issued Notice to her to appear before him for hearing. It is the contention of the 2nd respondent that the stamp duty for the Settlement Deed has been undervalued instead of valuing the instrument @ 8% as sale. Though she submitted her objections, without considering the same, the 2nd respondent acted in a biased manner colluding with the said T.M.Mohammed Yaseen and his henchmen viz., T.Y. Nazir Hussain & few others. Thereafter, she submitted a representation to the 1st respondent on 21.11.2013 seeking for appointment of an impartial enquiry officer. Pursuant to the said representation, the 1st respondent directed the 2nd respondent to close the enquiry vide his Proceedings dated 12.12.2013. While so, it came to light that the said T.S. Mohammed Yaseen has filed Writ Petition in W.P. No.6741 of 2013, wherein this Court issued directions to the 1st respondent herein to look into the grievance of the petitioner therein. That being the position, to her shock and surprise, the 2nd respondent issued the impugned proceedings dated 09.09.2014 and issued Notice under Section 27 of the Indian Stamp Act, calling upon her to make a reply as to why the deficit stamp duty of Rs.12,65,320/- should not be confirmed. Aggrieved over the same, this writ petition has been filed.

3. The learned counsel for the petitioner submitted that though the petitioner is not a Grand Daughter of Settlor viz., T.M. Abdul Azeez, however she is the Daughter of Settlor's brother's son. He further submits that the impugned order passed by the 2nd respondent is without any jurisdiction and illegal. He also submits that Article 58(a)(ii) of the Indian Stamp Act 1899 will be squarely applicable to the case of the petitioner and thus, he prays for quashment of impugned proceedings of the 2nd respondent as well as for appropriate directions.

4. Per contra, Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents submits that the petitioner is not a direct Legal Heir of the Settlor as the Settlor died without any issues. Thus, the petitioner is not a Class – I Legal Heir of the Settlor. He further submits that the petitioner has suppressed the aforesaid fact, which is contrary to Article 58(a) (ii) of Schedule -I of The Indian Stamp Act 1899 and therefore, she is not entitled for any reduction in Stamp Duty. Considering the aforesaid lines, the settlement deed registered in favour of the petitioner is unsustainable and the order passed by the 2nd respondent is perfectly in order and this court may not interfere with the said order, thus, he prays for dismissal of this writ petition.

5. Heard the learned counsel on either side and perused the materials placed on record.

6. It is an admitted fact that the Settlor T.M. Abdul Azeez

has executed the Settlement Deed in favour of the petitioner in respect of the subject properties, which was registered on the file of Joint Sub - Registrar, Coimbatore. For better appreciation, Explanation given under Article 58 of the Indian Stamp (Tamil Nadu Amendment) Act is reads as follows :-

> For the purpose of this Article, the word "family" means father, mother, husband, wife, son, daughter and grand child. In the case of any one whose personal law permits adoption, “father” shall include an adoptive father, “mother” an adoptive mother, “son” an adopted son and “daughter” an adopted daughter.

7. Applying the same principle to the case on hand, it denotes that the petitioner is the grand daughter of the settlor's brother and not Settlor's own grand daughter. While not being the case, the petitioner not being the grand daughter of the settlor, cannot avail the benefit of exemption or reduction, and thus, the petitioner is liable to pay proper stamp duty as prescribed under the provisions of the Indian Stamp Act, 1899. Therefore, the impugned proceedings issued by the 2nd respondent is perfect in law and the relief sought for in this writ petition cannot be granted. Accordingly, the petitioner is directed to pay the necessary stamp duty as stated in the impugned proceedings, within a period of four weeks from the date of receipt of a copy of this order.

8. With the aforesaid directions, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi2

To

1.The Inspector General of Registration,
100, Santhome Road,
Pattinapakkam,
Chennai - 600 028.

2.The District Registrar (Administration),
Office of the District Registrar of Registration,
Coimbatore.

+1cc to the Government Pleader, S.R.No.29930

W.P. No.25859 of 2014

NR(CO)
PM(30/05/2022)