IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.19704 of 2014
And
M.P.No.1 of 2014

S.Ravichandran ... Petitioner

Vs.

1. The Inspector General of Registration and
 Principal Revenue Controlling Officer,
 Office of the Inspector General of Registration,
 100, Santhome High Road,
 Chennai - 600 028.

2. The Special Deputy Collector (Stamps),
 Salem, Namakkal & Dharmapuri Districts,
 Salem - 636 001.

3. The Sub Registrar,
 Komarapalayam Sub Registrar Office,
 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 order passed by the first respondent in கடித எண்.32467 / உ2/ உ1/06-2 நாள் 21/05/2014 and quash the same.

For Petitioner : M/s.R.Marudhachalamurthy

For Respondents : 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 order passed by the first respondent in கடித எண்.32467 / உ2/ உ1/06-2 நாள் 21/05/2014 and to quash the same.

2.The case of the petitioner is that the petitioner and one Lawrence purchased the properties in S.No.4/1 in patta no.808 to the extent of 74 ½ cents and Town Survey Nos.33/2, 34/2 and 35/2 in patta no.15453 to the extent of 27 ¾ cents in Komarapalayam Agrahara Village, Komarapalayam Sub Registration District, Namakkal Registration District on 08.05.2007 under document nos.1791/2007 and 1792/2007 and submitted the documents for registration before the third respondent.

3.The further case of the petitioner is that the third respondent referred the documents to the second respondent under Section 47A(1) of the Indian Stamp Act [hereinafter referred to as 'Act'] for determining the market value and for proper stamp duty. Thereafter Form - I notice was issued to the petitioner on 06.06.2007. On receipt of the Form - I notice, the petitioner and the said Lawrence approached the second respondent and made their explanation and requested the second respondent to ascertain the property value and to fix the stamp duty.

4.The further case of the petitioner is that thereafter the second respondent made spot inspection and fixed the stamp duty and the same was paid by the petitioner and the said Lawrence on 26.06.2007 and the documents were released. Whileso, the first respondent initiated suo motu revision and issued the impugned order. Hence, the writ petition.

5.The learned counsel appearing for the petitioner submitted that for the very same document the second respondent initiated proceedings under Section 47A(1) of the Act and the second respondent fixed the guideline value for the property and collected the stamp duty and on payment of stamp duty by the petitioner on 26.06.2007, the document was released in favour of the petitioner. The learned counsel further submitted that the first respondent initiating suo motu revision by invoking Section 47A(6) of the Act and issuing the impugned order after a lapse of more than six years is not sustainable one, since as per Section 47A(7)(b) of the Act, the period fixed for initiating suo motu revision is only five years.

6.The learned Special Government Pleader appearing for the respondents submitted that suo motu revision was initiated as against the petitioner on 29.07.2010 itself which is well within the period of five years and notice was sent to him. Hence, the impugned order is perfectly valid one. However, the learned Special Government Pleader fairly submits that there is no acknowledgement available in the file to substantiate that notice was issued to the petitioner.

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

8.The facts in the present case is not disputed. Admittedly, the petitioner and one Lawrence purchased properties vide document nos.1791/2007 and 1792/2007 and submitted the documents for registration before the third respondent. The third respondent referred the documents to the second respondent under Section 47A(1) of the Act for determining the market value and for proper stamp duty. After conclusion of the proceedings under Section 47A(1) of the Act, the second respondent fixed the stamp duty and the same was paid by them on 26.06.2007 and the documents were released.

9.The moot question that arise for consideration in this writ petition is as to whether suo motu revision can be initiated after expiry of five years.

10.For better appreciation, Section 47A(6) and Section 47A (7) of the Indian Stamp Act are extracted hereunder:

> "47-A(6) The Chief Controlling Revenue Authority may, suo motu, call for and examine an order passed under sub-section (2) or sub-section (3) and if such order is prejudicial to the interests of revenue, he may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may initiate proceedings to revise, modify or set aside such order and may pass such order thereon as he thinks fit.
>
> 47-A(7)The Chief Controlling Revenue Authority shall not initiate proceedings against any order passed under sub-section (2) or sub-section (3) if, -
>
> (a) the time for appeal against that order has not expired; or
>
> (b) more than five years have expired after the passing of such order."

11.Perusal of the above provisions makes it clear that the Chief Controlling Revenue Authority shall not initiate proceedings against any order passed under sub-section (2) or sub-section (3), if more than five years have expired after the passing of such order.

12.In the present case, proceedings under Section 47A(1) of the Act was initiated as against the petitioner and the same concluded on 26.06.2007 and the document was released in favour of the petitioner. The impugned order has been issued on 21.05.2014, which is beyond the period prescribed under the statute. Though the respondents claim that suo motu revision was initiated as against the petitioner on 29.07.2010 itself, there is no acknowledgement available in their file to substantiate that notice was issued to the petitioner.

13.In view of the above, this Court is of the opinion that the impugned order warrants interference as it has been passed beyond the period prescribed under the statute. On this score, this writ petition stands allowed. The impugned order passed by the first respondent dated 21.05.2014 is hereby set aside. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration and
   Principal Revenue Controlling Officer,
   Office of the Inspector General of Registration,
   100, Santhome High Road,
   Chennai - 600 028.

2. The Special Deputy Collector (Stamps),
   Salem, Namakkal & Dharmapuri Districts,
   Salem - 636 001.

3. The Sub Registrar,
   Komarapalayam Sub Registrar Office,
   Namakkal District.

+1cc to M/s.R.Marudhachalamurthy, Advocate SR. No.19737
+1cc to Government Pleader SR. No.20404

W.P.No.19704 of 2014
And
M.P.No.1 of 2014

SKM (CO)
PR (11/04/2022)