IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14/11/2022

C O R A M

THE HONOURABLE MR.JUSTICE **N. SATHISH KUMAR**

Writ Petition No.6305 of 2017
a n d
W.M.P.Nos.6795 and 6796 of 2017

E.V.Kumaran ... Petitioner

Vs

1. The Special Deputy Collector (Stamps)
   Vellore 632 009.

2. The Joint Sub-Registrar – II
   Registration Department
   Tirvannamalai ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records relating to the impugned Demand Notice issued in Sl.No.229, Document No.4850/2000 on the file of the second respondent herein (served on 18/1/2017) and quash the same.

For Petitioner	...	Mr.K.Govi Ganesan
For respondents	...	Mr.K.Tippu Sultan Government Advocate for R.R.1 and 2.

O R D E R

This writ petition has been filed to quash the impugned Demand Notice issued in Sl.No.229, Document No.4850/2000 by the second respondent.

2. The case of the petitioner is that he has purchased an extent of 3.41 acres in old S.No.30/3, 30/4, 30/5 and 36/1 from one Palani and 4 others, sons of A.Samidurai Gounder, vide, sale deed, dated 11/6/2009 and registered as Doc.No.4850/2009 in the office of the second respondent. Suddenly, on 18/1/2017, the petitioner had received a Notice, undated, directing the petitioner to remit the deficit stamp duty of Rs.2,90,878/-. Being aggrieved, the petitioner had filed the instant writ petition praying for the relief as stated therein.

3. Heard Mr.K.Govi Ganesan, learned counsel for the petitioner and Mr.K.Tippu Sultan, learned Government Advocate for the respondents.

4. It is the contention of the learned counsel for the petitioner that document referred in the impugned notice is no way connected to his

purchase. Repeatedly, the second respondent is sending notice to remit the deficit stamp duty.

5. The second respondent has filed a counter affidavit, wherein it is stated that they have not made any demand for payment of deficit stamp duty, for Document No.4850/2000, on 11/3/2013, and the second respondent had never initiated any action, under Section 47-A (1) of the Indian Stamps Act, 1899. The correspondence and intimation dated 20/1/2014 and post card dated 25/1/2014 demanding deficit stamp duty were sent by the first respondent.

6. Perused the materials available on record.

7. It is relevant to extract Section 47 A of the Indian Stamps Act.

(i). Section 47 – A (1) **Instruments of Conveyance, etc., undervalue how to be dealt with** – If the registering officer appointed under the Registration Act, 1908, while registering any instrument of conveyance (exchange, gift, release of benami right or settlement) has reason to believe that the market value of the property of which is the subject matter of conveyance (exchange, gift, release of benami right or settlement) has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon.

(ii). Sub-Clause 2 of Section 47 A of the Indian Stamp Act, 1899, contemplates that on receipt of such reference, the reasonable opportunity of being heard to be given to the parties by the Collector and hold an enquiry, following the Rules.

(iii). Sub-Clause 3 of Section 47 A of the Indian Stamp Act, 1899 deals with suo motu power of the Collector to hold an enquiry and call for examination and fix the correct value.

8. Though suo motu power has been vested with the authorities while conducting enquiry, notice ought to have been given to the petitioner and also opportunity of hearing to the petitioner. No reference of notice or opportunity has been given to the petitioner. Further, a perusal of the impugned communication would disclose that it pertains to Document No.4850 of 2000, whereas the Document pertains to the petitioner is bearing

Document No.4850 of 2009 and apart from that, impugned communication does not contain any date.

9. In such a view of the matter, impugned order, demanding a stamp duty from the petitioner is set aside. Accordingly, this writ petition is allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

14/11/2022

Index : Yes / No
Internet: Yes
Speaking/non speaking order

mvs.

To

1. The Special Deputy Collector (Stamps)
   Vellore 632 009.

2. The Joint Sub-Registrar – II
   Registration Department
   Tirvannamalai

N.SATHISH KUMAR,J

mvs.

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