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W.P.No.10551 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.10551 of 2017

And

W.M.P.No.11471 of 2017

K.Kandasamy

... Petitioner

Vs.

1.District Revenue Officer (Stamps),
Collector's Office Compound,
Coimbatore.

2.Sub – Registrar,
Pollachi,
Coimbatore.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent pertaining to the provisional order dated 03.04.2017 in Mu.Pa.No.2398/P/2017 on the file of the first respondent herein, quash the same and direct the first respondent to hold an enquiry after affording an opportunity of being heard in person and to produce documents on his side as contemplated under sub section 2 of section 47-A of Indian Stamp Act.



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For Petitioner : Mr.C.R.Prasanan
For Respondents : Mr.C.Kathiravan
Special Government Pleader

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records of the first respondent pertaining to the provisional order dated 03.04.2017 in Mu.Pa.No.2398/P/2017 on the file of the first respondent, quash the same and direct the first respondent to hold an enquiry after affording an opportunity of being heard in person and to produce documents on his side as contemplated under sub section 2 of section 47-A of Indian Stamp Act.

2.The case of the petitioner is that the petitioner purchased 2/5 share of the property in old T.S.No.242/B2, new T.S.No.123/5, presently new T.S.No.123/5A, Pollachi, Coimbatore District, measuring an extent of 0.94 acres vide registered sale deed dated 09.06.2016 and the said land is agricultural land. Thereafter, the respondent issued the impugned order directing the petitioner to pay a sum of Rs.18,63,535/- towards deficit stamp duty. Hence this writ petition.



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3.The learned counsel appearing for the petitioner submitted that though it is clearly stated in the schedule of the property that the petitioner purchased only 2/5th share of the property, the respondents inadvertently calculated stamp duty for the entire extent of 2.35 acres.

4.The learned Special Government Pleader appearing for the respondents submitted that as against the impugned order, there is effective appeal remedy available to the petitioner in terms of Section 47 A(5) of the Indian Stamp Act before the Inspector General of Registration and without exhausting the appeal remedy, the petitioner has filed this writ petition, which is unsustainable one.

5.As rightly pointed out by the learned Special Government Pleader appearing for the respondents, there is effective appeal remedy available to the petitioner in terms of Section 47 A(5) of the Indian Stamp Act. Hence, this Court, without expressing any opinion on the merits of the case, since expressing any opinion on the merits of the case may adversely affect the interest of the parties, permits the petitioner to file appeal before the Inspector General of Registration in terms of Section 47 A(5) of the Indian Stamp Act as



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against the impugned order. The period during which the writ petition was pending before this Court is excluded for the purpose of limitation.

6. With the above observations, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

15.11.2022

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Note: Registry is directed to return the original impugned order to the learned counsel appearing for the petitioner.

Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

1. The District Revenue Officer (Stamps),
Collector's Office Compound,
Coimbatore.
2. The Sub – Registrar,
Pollachi,
Coimbatore.



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M.DHANDAPANI,J.
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