IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Writ Petition No.17264 of 2017 and
W.M.P.No.18762 of 2017

M.Saraswathi ... Petitioner

vs.

1. The District Revenue Officer (Stamps).,
   District Collector Office compound,
   Coimbatore – 641 018.

2. The Special Tahsildar (Stamps),
   Revenue Divisional Office Compound,
   Brough Road,
   Erode – 638 001.

3. The Sub-Registrar,
   Ammapettai SRO,
   Ammapettai,
   Erode District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus Certiorarified Mandamus calling for the records relating to the impugned final notice dated 24.11.2016 in Mu.Pa.No.573/2000 issued by the respondents 1 and 2, quash the same and consequently direct the respondents to release the original sale deed dated 21.06.2010 registered as Document No.2705 of 2010 on the file of the third respondent by considering the representation dated 22.12.2016.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.G.Krishna Raja
Additional Government Pleader

ORDER

This writ petition is filed seeking for issuance of a writ of certiorarified mandamus to quash the impugned final notice dated 24.11.2016 in Mu.Pa.No.573/2000 issued by the respondents 1 and 2 and consequently direct the respondents to release the original sale deed dated 21.06.2010 registered as Document No.2705 of 2010 on the file of the third respondent by considering the representation dated 22.12.2016 within the time frame that may be stipulated by this Court.

2. It is the case of the petitioner that she purchased the property in R.S.No.163/1A1 of an extent of 4.60 acres situated in Illipili Village, Anthiyur Taluk, Erode District from one C.Balasundaram by virtue of sale deed dated 21.06.2010, registered on the file of third respondent on receipt

of necessary stamp duty and registration charges. Thereafter, petitioner is in possession and in enjoyment of the above said property. After the completion of the registration, it appears that the third respondent had sent a communication to the first respondent to initiate proceedings u/s 47 A of the Indian Stamp Act (hereinafter referred to as 'the Act'). Pursuant to the undisclosed communication, the first and second respondents have issued a final notice dated 24.11.2016 in printed format, directing the petitioner to pay deficit stamp duty of Rs.7,55,200/- after deducting the stamp duty paid at the time of registration. Immediately, thereafter, the petitioner made a representation dated 22.12.2016 before the respondents disputing the contents of the notice dated 24.11.2016 issued by the first and second respondents and to release the document presented for registration, but the respondents have not given any reply or chosen to conduct any enquiry u/s 47 A of the Act. Challenging the said Notice dated 24.11.2016, issued by the first and second respondents, the present writ petition has been filed seeking the aforesaid relief.

3. Learned counsel appearing for the petitioner submitted that as per

Section 47 A of the Act, the respondents 1 and 2 have to determine the market value after holding an enquiry in which the parties concerned should be given a reasonable opportunity of being heard, but no such enquiry or opportunity has been given to the petitioner. Learned counsel for the petitioner further contended that the sale deed was registered as early as on 21.06.2010, but even after a lapse of 7 years, the petitioner claims that she did not receive any notice or order of demand from the respondents herein with regard to the decision taken under Section 47 A of the Act. Hence, he prays that this Court may quash the impugned final notice / demand notice dated 24.11.2016 issued by respondents 1 and 2 and consequently direct the respondents 1 and 2 to consider the petitioner's representation and appropriate orders may be passed.

4. Learned Additional Government Pleader appearing for the respondents submitted that though the petitioner received several notices and the order of demand through registered post, without challenging the said order of demand, challenging the consequential demand notice dated 24.11.2016 is *per se* unsustainable. Accordingly, this writ petition is liable

to be dismissed.

5. Though the facts stand as above, however, it is the claim of the petitioner that though her property was registered in the year 2010, even after a lapse of seven years the first and second respondents have not conducted any enquiry with regard to the decision taken u/s 47 A of the Act, whereas learned Additional Government Pleader appearing for the respondents claims that though several notices and order of demand have been sent through RPAD, the petitioner has not chosen to challenge the order of demand without doing so, challenging mere demand notice is not sustainable.

6. As rightly pointed out by learned Additional Government Pleader appearing for the respondents, without challenging the order of demand, challenging the consequential demand notice dated 24.11.2016, issued by the first and second respondents is unsustainable. Accordingly, the prayer sought for by the petitioner cannot be granted.

7. Accordingly, this writ petition is dismissed with liberty to the petitioner to work out the remedy in the manner known to law. However, the period pending before this Court is excluded for computing the limitation period. Consequently connected miscellaneous petition is closed. There shall be no order as to costs.

19.10.2022

RAP

Index : Yes/No
Speaking order : Yes/No

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M.DHANDAPANI, J.

RAP

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