BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.03.2022

CORAM :

**THE HON`BLE MR.JUSTICE B.PUGALENDHI**

W.P(MD)No.9962 of 2009
and
M.P.(MD)No.1 of 2009

Mathiyarasan : Petitioner

Vs.

1.The District Registrar,
District Registrar Office,
12, Muthupattinam, Karaikudi – 1.

2.The Sub Registrar,
Sub Registrar Office,
Thondi.

3.The Tahsildar,
Taluk Office,
Thiruvadanai. : Respondents

**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings of the first respondent in Na.Ka.No.8966/A1/05, dated 29.05.2006 and its consequential proceedings, quash the same and directing the respondents to release the registered Document No.B13-2005 on the file of the second respondent.

For Petitioner :Mr.S.A.Ajmal Khan

For Respondents :Mr.S.Shanmugavel
Additional Government Pleader

**O R D E R**

This writ petition is filed as against the notice dated 29.05.2006.

2.The petitioner, claiming to be a Trustee of a Temple Administration, registered a document in Doc.No.P13/2005, dated 03.11.2005, before the second respondent. The first respondent directed the petitioner to pay stamp duty of Rs.7,48,100/-. The petitioner, claiming that he is a Trustee and that he is supposed to pay only a sum of Rs.300/-, raised certain objections. Therefore, the impugned notice dated 29.05.2006 was issued as against the petitioner, directing him to pay a sum of Rs.7,48,100/-, towards stamp duty.

3.Learned Counsel for the petitioner, by relying upon the provisions under Rule 4 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, submitted that if the second respondent decides that the document is undervalued, it ought to have been referred to the Collector of Stamps under Section 47A of the Indian Stamp Act, 1899. Thereafter, the Collector shall issue notices in Form I, II and II and then only, a decision can be taken. However, the same has not been followed in this case.

4.The respondents have taken a specific stand that no demand has been raised under Section 47A of the Act. The document registered by the petitioner requires a registration cum stamp fee, which, the petitioner has not accepted to. Therefore, the impugned show cause notice was issued and it is not under Section 47A of the Act, as such, the procedures relied upon by the petitioner as to the issuance of Forms I, II and III before taking a decision would not apply in this case.

5.He further submitted that the properties registered by the petitioner on 03.11.2015 is having two houses and a temple. An inspection was also made on the properties and in the inspection report, the petitioner has also signed. The notice impugned in the writ petition is a show cause notice calling upon the petitioner to pay the deficit stamp duty of Rs.7,48,100/- in respect of the Document in No.P13/05. But, the writ petition is filed under the impression that the demand has been raised under Section 47A of the Act and also under the impression that the procedures contemplated under the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, have not been complied with.

6.Heard the learned Counsel appearing on either side and perused the documents placed on record.

7.It is the specific stand of the respondents that the demand has not been raised under Section 47A of the Act and that the document registered by the petitioner requires registration cum stamp fee, which the petitioner has refused. Therefore, a spot inspection was made and only after the spot inspection and after identifying that there are two houses in the property, they have insisted the petitioner to pay the required stamp fee. Since the petitioner has refused to pay the same, the document has been marked as Pending Document in P13/05 and the impugned show cause notice was issued directing the petitioner to pay the amount.

8.In such view of the matter, this writ petition is disposed of, with a direction to the petitioner to establish before the respondents as to how he is not entitled to pay the stamp duty, as claimed by the respondents, by way of a representation to the impugned show cause notice. Such representation shall be submitted within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said representation, the respondents shall consider the same and pass appropriate orders, on merits and in accordance with law, within a further period of four weeks thereafter. It is always open to the respondents to pass appropriate orders fixing the rate of interest for the belated payment of fee. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

gk

To

1.The District Registrar,
District Registrar Office,
12, Muthupattinam, Karaikudi - 1.

2.The Sub Registrar,
Sub Registrar Office,
Thondi.

3.The Tahsildar,
Taluk Office,
Thiruvadanai.

+1 CC to M/s.S.A.AJMAL KHAN, Advocate (SR-15927[F] dated 01/04/2022 )

+1 CC to M/s.SPL GP ( SR-16065[F] dated 01/04/2022 )

**W.P(MD) No.9962 of 2009**
**31.03.2022**

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