



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P. (MD) .Nos.4059 & 4060 of 2012

and

M.P. (MD) Nos.1, 1 of 2012

P.Balamurugan

... Petitioner (In both cases)

Vs.

1. The Special Collector (Stamps)
Tanjore.

2. The District Registrar,
Kumbakonam,
Tanjore District.

... Respondents (In both cases)

PRAYER in W.P. (MD) No.4059 of 2012: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the impugned proceedings dated nil.12.2005 in Ce.Pa.No.978/205/A2 on the file of the first respondent and the impugned notice dated 01.12.2011 also on the file of the first respondent and quash the same as illegal, arbitrary and in excess of jurisdiction.

PRAYER in W.P. (MD) No.4060 of 2012: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the impugned proceedings dated nil.month nil.2006 in Ce.Pa.No.9/2006/A2 on the file of the first respondent and the impugned notice dated 01.12.2011 also on the file of the first respondent and quash the same as illegal, arbitrary and in excess of jurisdiction.

(In both cases)

For Petitioner : Mr.T.V.Shivakumar
for Mr.H.Lakshmi Sankar

For Respondents : Mr.K.S.Selvalganesan
Additional Government Pleader



ORDER

The present writ petition has been filed challenging an order passed by the first respondent under which the petitioner was directed to pay a sum of Rs.29,390/- as additional stamp duty for the document registered by him in Document No.1504 of 2005, dated 10.05.2005.

2. According to the petitioner, he was not aware of the fact that the document was referred to the first respondent herein under Section 47 A of the Stamp Act. The petitioner did not receive any notice from the first respondent either in Form 1 or Form 2. The orders passed by the first respondent in 47 A proceedings were also not served upon him. The petitioner has received only a memo from the first respondent directing him to pay a sum of Rs.59,390/-. Hence he has prayed for quashing the order passed by the first respondent herein.

3. Per Contra, the learned Counsel for the respondents has contended that Form 1 and Form 2 have been served upon the petitioner. However, postal receipts and acknowledgement card are not available in the files. The learned Counsel for the respondents has further contended that the impugned order has also been served upon the petitioner. However, there are no records to indicate the service upon the writ petitioner.

4. I have given carefully considered the submissions made on either sides.

5. A sale deed has been registered in favour of the writ petitioner on 10.05.2005. Thereafter, for the first time the petitioner has received the impugned notice on 01.12.2011, directing the petitioner to pay deficit stamp duty for the documents that was registered in the year 2005. Thereafter, the petitioner has approached the authorities under the Right To Information Act and he came to know that a final order has been passed under Section 47 A by the first respondent herein, on 08.12.2005.

6. The facts narrated above clearly indicate that the statutory notice as contemplated under Form 1 and Form 2 of the Stamp Act have not been issued to the writ petitioner. Even the impugned order dated 08.12.2005, passed by the first respondent herein has not been served upon the writ petitioner. The entire proceedings under 47-A have been conducted behind the back of the writ petitioner. In such view of the matter, the order impugned is set aside. The order dated 08.12.2005, passed by the first respondent herein under 47-A Act is also set aside. The matter is remitted back to the file of the first respondent for conducting a fresh enquiry under Section 47-A of the Act, after giving opportunity to the writ petitioner and after the following the



entire procedure as contemplated under Section 47-A of the Act.

7. With the above said observations, both the Writ Petitions stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (Records)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

jbr

To

1. The Special Collector (Stamps)
Tanjore.

2. The District Registrar,
Kumbakonam,
Tanjore District.

+2 CC to M/s.T.V. SIVAKUMAR, Advocate (SR-27616,SR-27617[F] dated 23/06/2022)

+1 CC to M/s.SPL.GP (SR-27783[F] dated 23/06/2022)

W.P. (MD) .Nos. 4059 & 4060 of 2012

22.06.2022

=RD(06.07.2022) 3P 6C