



W.P(MD)No.6427 of 2013

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.09.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.6427 of 2013

and

M.P(MD)No.1 of 2013

P.Balasubramaniyan

... Petitioner

Vs.

1.The Special Deputy Collector (Stamps),
Office of the Special Deputy Collector (Stamps),
District Collector Complex,
Madurai-625 020.

2.The Special Tahsildar (Stamps),
Office of the Special Deputy Collector (Stamps),
District Collector Complex,
Madurai-625 020.

3.The Sub-Registrar,
Palace Road, Mahal,
Madurai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order made in S.R.No. 23/03 MDU-I, dated 00.01.2013, on the file of the second respondent and



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to quash the same and consequently direct the first respondent to conduct enquiry and to pass order as per section 47-A of the Indian Stamp Act with regard to the pending document No.6601/02, dated 29.03.2001 of the petitioner submitted for registration before the third respondent.

For Petitioner : M/s.M.Thirunavukkarasu

For Respondents : M/s.K.S.Selvaganesan
Additional Government Pleader

ORDER

The present Writ Petition has been filed challenging the final notice issued by the first respondent herein, under which, the first respondent has directed the writ petitioner to appear for an enquiry towards collection of deficit stamp duty.

2. According to the petitioner, he had purchased a property under a registered document, dated 29.03.2001. Thereafter, the original document was not released by the third respondent herein, on the ground that it has been referred under Section 47-A of the Indian Stamp Act, 1899. However, according to the learned Counsel for the petitioner, he has not received any notice from the first respondent herein and the



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present final notice has been issued directing him to pay the amount, otherwise, proceedings under the Revenue Recovery Act could be initiated. Hence, the present writ petition.

3. The learned Counsel for the writ petitioner has further contended that without initiating any proceedings or conducting an enquiry under Section 47-A of the Indian Stamp Act, such orders cannot be passed by anyone of the respondents herein. Hence, he prayed for allowing the writ petition.

4. Per contra, the learned Additional Government Pleader appearing for the respondents had contended that as per the records, Form 1 notice as contemplated under Section 47-A of the Indian Stamp Act has been issued and final orders have also been passed. However, a perusal of the records indicate that there is no proof for serving either the Form 1 notice or the Form 2 notice on the writ petitioner. There are also no records to establish that the final orders, namely, under Form 3 were served upon the writ petitioner. Without initiating an enquiry under Section 47-A of the Indian Stamp Act and passing final orders as



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contemplated under the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, the present impugned order has been passed.

5. I have carefully considered the submissions made on either side.

6. The narration of the above said facts will clearly indicate that no proceedings have been initiated under Section 47-A of the Indian Stamp Act. Neither Form 1 nor Form 2 has been served upon the writ petitioner. The final order under Form 3 has also not been served upon the writ petitioner. In view of the above said facts, the order impugned in the writ petition is set aside. The writ petition stands allowed. However, the first respondent is at liberty to initiate proceedings under Section 47-A of the Indian Stamp Act, after properly serving notices to the writ petitioner under Form 1 and Form 2 of the Indian Stamp Act.



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7. With the above said observations, the writ petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

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Index : Yes / No
Internet : Yes / No
btr

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R.VIJAYAKUMAR, J.

btr

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