



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.[MD]No.7537 of 2022

and

W.M.P.[MD]No.5698 of 2022

1.Pushpam
2.Srikiruba
3.Jeyasri

... Petitioners

Vs.

1.The Sub Collector,
Periyakulam, Theni District.
2.The District Registrar,
Periyakulam, Theni District.
3.The Sub Registrar,
Badtlakundu, Theni District.
4.The Tahsildar,
Periyakulam, Theni District.

5.M.Jeeva
6.Kalavathi
7.Rathi
8.Umarani

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records of the first respondent in his proceedings in Na.Ka.No.6901/2021/A2 dated 16.03.2022 and quash the same.

For Petitioners	: Mr.S.Venkatesh for Mr.A.Sivaji
For R-1 to R-4	: Mr.B.Saravanan Additional Government Pleader

O R D E R

This writ petition has been filed challenging the order dated 16.03.2022 calling upon the petitioners to pay penalty at 10 times on the deficit stamp duty in respect of the three documents totally amounting to Rs.9,63,798/-. The said three documents were attempted



to be marked as exhibits by the defendants in the suit in O.S.No.11 of 2014 on the file of Sub Court, Periyakulam.

2.The petitioners were the defendants in the suit. The documents being unregistered were impounded on account of payment of deficit stamp duty and under the impugned order passed by the first respondent, the petitioners have been called upon to pay the aforesaid amount. The petitioners have challenged the impugned order primarily on the ground of violation of principles of natural justice. According to them, without giving an opportunity of hearing, the impugned order has been passed calling upon them to pay a huge amount towards deficit stamp duty. According to the petitioners, Sections 40(b) and 33 of the Indian Stamp Act, 1899, have not been followed.

3.Learned Counsel for the petitioners drew the attention of this Court to the impugned order and would reiterate the contents of the affidavit filed in support of this writ petition.

4.This Court has perused and examined the statutory provisions relied upon by the learned Counsel for the petitioners as well as the impugned order. As seen from the impugned order, no opportunity of hearing has been granted to the petitioners though several contentions are raised in this writ petition.

5.The contentions raised by the petitioners in this writ petition have not been considered by the first respondent under the impugned order. Being a non-speaking order and being an order passed without adhering to the principles of natural justice, as no opportunity of hearing has been granted to the petitioners, the impugned order has to be necessarily quashed and the matter has to be remanded back to the first respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioners including granting them the right of personal hearing. Since the suit is kept pending due to the non-marking of the subject documents, the first respondent will have to pass orders within a short period of time.

6.In the result, the impugned order dated 16.03.2022 passed by the first respondent is hereby quashed and the matter is remanded back to the first respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioners and the respondents 5 to 8 who are the other parties to the suit in O.S.No.11 of 2014 on the file of the Sub Court, Periyakulam, including granting them the right of personal hearing. The first respondent is directed to pass final orders within a period of six [6] weeks from the date of receipt of a copy of this order.



7. With the aforesaid direction, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

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// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MR

To

1. The Sub Collector,
Periyakulam, Theni District.

2. The District Registrar,
Periyakulam, Theni District.

3. The Sub Registrar,
Badtlakundu, Theni District.

4. The Tahsildar,
Periyakulam, Theni District.

+1 CC to M/s.A. SIVAJI, Advocate (SR-20259[F] dated 21/04/2022)

+1 CC to M/s.SPL.GP. (SR-20461[F] dated 22/04/2022)

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