



*W.P(MD)Nos.20563, 20522 of 2015
and W.P(MD).No.2534 of 2017*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 03.08.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)Nos.20563, 20522 of 2015
and W.P(MD).No.2534 of 2017
and W.M.P(MD)Nos.11233 and 11234 of 2018
and W.M.P(MD).No.2105 of 2017

W.P(MD).No.20563 of 2015

A.Yehaiah

... petitioner

Vs.

The Sub Registrar,

Kottaram, Kanyakumari District.

... Respondent

PRAYER : 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 relating to the impugned notice of the respondent in Letter No. 891/2012, dated .06.2015(12-2008-869), and quash the same.

For Petitioner : Mr.T.Selvakumaran

For Respondent : Mr.K.S.Selvaganesan
Additional Government Pleader



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W.P(MD).No.20522 of 2015

1.J.Jeslin

2.A.Joshua Selvaraj

... petitioners

Vs.

The Sub Registrar,
Kottaram, Kanyakumari District.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent, pertaining to his order in Letter No.1812/2010, dated .06.2015(4-6/2010-1-14) on his file, quash the same, and direct the respondent to remove forthwith the entries in the registry of encumbrance and all connected documents with regard to the alleged deficit stamp duty and alleged deficit registration fee with regard to the sale deed dated 10.05.2010 in favour of the petitioner, registered as document No.1812 of 2010 on the file of the respondent.

For Petitioners : Mr.K.N.Thampi

For Respondent : Mr.K.S.Selvaganesan

Additional Government Pleader

W.P(MD).No.2534 of 2017

Asharaf Ali

... petitioner

Vs.



*W.P(MD)Nos.20563, 20522 of 2015
and W.P(MD).No.2534 of 2017*

The Sub Registrar,
Kottaram, Kanyakumari District.

... Respondent

PRAYER : 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 relating to the impugned notice of the respondent in Document No.1345/2012, dated 02.12.2016 and quash the same.

For Petitioner : Mr.T.Selvakumaran
For Respondent : Mr.K.S.Selvaganesan
Additional Government Pleader

COMMON ORDER

The present writ petitions have been filed challenging a notice issued by the respondent demanding a deficit stamp duty for documents registered in the year 2010 and 2012.

2.According to the writ petitioners, the documents were registered in the year 2010 and 2012 and the documents were also released in the year 2010 and 2012. However, the impugned orders have been passed by the concerned Sub-Registrar in the month of June-2015, June-2015 and Dec-2016 respectively.



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3. According to the learned counsel for the petitioners, any proceedings under Section 33-A of the Indian Stamp Act (hereinafter referred to as 'Act') can be initiated only within a period of three(3) years from the date of registration of the instrument. In the present case, in all the three cases, the proceedings under Section 33-A have been initiated beyond a period of three years and hence, they have sought to quash the demand notices issued by the respondent herein.

4. Per contra, the learned counsel for the respondent has contended that the notice impugned in these writ petitions is only an information to the writ petitioners and it cannot be treated to be a statutory demand notice. In case, if the petitioners have not accepted the said notice and did not like to make the payment, the respondent has got power to refer the documents under Section 47-A of the Act to the concerned Sub-Collector. In the present case, since the petitioners have challenged the notice issued by the respondent herein, all the three documents have been referred to the Sub-Collector under Section 47-A of the Act.



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5.The learned counsel for the petitioners have submitted that so far they have not received any notice from the concerned Sub-Collector for initiation of proceedings under Section 47-A of the Act.

6.A perusal of the impugned notice indicates that once a document is registered and released, the respondent will not have any statutory power to demand deficit stamp duty, unless it squarely falls within Section 33-A of the Act. In the present case, even according to the respondent, they are not making the demand under Section 33-A, but due to under valuation of the document, which would attract Section 47-A of the Act.

8.In the above said circumstances, the orders impugned in these writ petitions have been issued without any jurisdiction. Hence, the impugned orders are set aside. Accordingly, these Writ Petitions are **allowed**. However, the respondent is at liberty to proceed with the 47-A proceedings, if they are so advised. Incase, if the petitioners receive any such notice, they are at liberty to challenge the same. The respondent is



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also directed to remove the entries in the registry of encumbrance relating to the alleged deficit stamp duty and alleged deficit registration fee, within a period of four(4) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petitions are closed.

03.08.2022

Index : Yes / No
Internet : Yes / No
Rmk

To
The Sub Registrar,
Kottaram, Kanyakumari District.



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R.VIJAYAKUMAR ,J.

Rmk

Order made in
W.P(MD)Nos.20563, 20522 of 2015
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Dated:
03.08.2022