



WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

W.A.(MD) No.1338 of 2022

DATED : 10.11.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

W.A.(MD) No.1338 of 2022

and

C.M.P.(MD) No.10475 of 2022

1.The Inspector General of Registration
100, Santhome High Road
Mullima Nagar, Mandaveli Pakkam
Raja Annamalaipuram, Chennai-600 028

2.The District Registrar
Near SLB Girls Government
Higher Secondary School
South Road, Nagercoil-629 001

3.The Joint Sub-Registrar-I
Kanyakumari District, Nagercoil

... Appellants

-vs-

P.John Suresh
rep. by his Power Agent
M.Francis John Bosco

... Respondent

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 11.07.2022, passed in W.P.(MD) No.13390 of 2022, on the file of this Court.



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For Appellants : Mr.K.S.Selvaganesh
Additional Government Pleader

For Respondent : Mr.C.T.Perumal

J U D G M E N T

[Judgment of the Court was made by R.MAHADEVAN, J.]

Challenging the order dated 11.07.2022, passed in W.P.(MD) No. 13390 of 2022, the Department of Registration has preferred this writ appeal.

2. The respondent / writ petitioner purchased a land comprised in R.S.No.H3/3-8 of Nagarcoil South Village, Agasteeswaram Taluk, Kanyakumari District, measuring an extent of 2 ³/₄ Cents (111.32 sq.meters) from one Arockiya Theodar Vijay, under a sale deed dated 01.12.2021, registered as document No.4497 of 2021, on the file of the third appellant herein. Subsequently, he found some errors in the boundaries of the schedule mentioned property of the sale deed. Therefore, he executed a rectification deed on 28.12.2021 and the same was registered as document No.4919 of 2021, on payment of Rs.1,15,695/- towards registration fee. Thereafter, he came to know that pursuant to the Circular, dated 03.09.2014, issued by the first appellant, if there is no change in the extent of the subject property, the rectification deed does not warrant stamp duty as prescribed under Section



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47B of the Indian Stamp Act, 1899. Therefore, he made a representation, dated 19.05.2022, to the appellants seeking refund of excess registration fee of Rs.1,15,595/-. Since no response was forthcoming from the side of the appellants, he filed a writ petition in W.P.(MD) No.13390 of 2022, wherein this Court, after hearing both sides, by order dated 11.07.2022, found that there is no change in the extent of the subject property of the sale deed and the rectification deed and therefore, directed the appellants to refund the excess registration fee of Rs.1,15,595/-. Challenging the same, the Department of Registration is before this Court by way of this appeal.

3. The sheet anchor of the arguments of the learned Additional Government Pleader appearing for the appellants is that since there is a change in the boundaries of the schedule mentioned property, the nature of the subject property is changed and therefore, the appellants cannot be found fault with the collection of the aforesaid registration fee.

4. On perusal of the sale deed dated 01.12.2021 and the rectification deed dated 28.12.2021, we find that there is absolutely no change either in the survey number or in the extent of the subject property. In such circumstances, the nature of the subject property would not change at all.



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Therefore, as per the Circular, dated 03.09.2014, issued by the first appellant, the rectification deed dated 28.12.2021 does not warrant stamp duty and the collection of the aforesaid registration fee by the appellants is illegal. Hence, we do not find any error or infirmity in the the order dated 11.07.2022, passed in W.P.(MD) No.13390 of 2022, by the learned Single Judge directing the appellants to refund the excess registration fee of Rs.1,15,595/- to the respondent.

5. In the upshot, the writ appeal fails and it is dismissed. The appellants are directed to refund the excess registration fee, as directed by the learned Single Judge, forthwith. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [J.S.N.P., J.]

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Index : Yes / No

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