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W.P. No.22641 of 2009



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2023

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.22641 of 2009

Kannammal Education Trust
Rep. by its Managing Trustee
ACS Towers,
No.22, G.N. Chetty Road,
T.Nagar, Chennai - 600 017

... Petitioner

Vs.

1. The Inspector General of Registration
Santhome, Chennai - 600 028.

2. The Sub-Registrar
T.Nagar,
No.9, Genes Road,
Saidapet, Chennai - 600 015

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of writ of certiorari to call for the records of the second respondent comprised in its notice dated 'nil' which was received by the petitioner on 23.10.2009 and quash the same as arbitrary, illegal and contrary to the provisions of the Indian Stamp Act, 1899, Indian Registration Act, 1908 and the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968.



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For Petitioner : Mr.Vishnu Mohan

For Respondents : Mr.R.P.Murugan Raja
Government Advocate

ORDER

This Writ Petition is filed seeking to issue a writ of certiorari to call for the records of the second respondent comprised in its notice dated 'nil' which was received by the petitioner on 23.10.2009 and quash the same as arbitrary, illegal and contrary to the provisions of the Indian Stamp Act, 1899, Indian Registration Act, 1908 and the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968.

2. The learned counsel for the petitioner submitted that he registered the sale deed dated 12.07.1999 and the sale consideration is mentioned in the Document No.2310/2008 valued at Rs.1,04,00,000/- in which, Rs.99,46,500/- has been valued for land and Rs.4,93,500/- was fixed for the building. Therefore, both the land and building were valued at Rs.1,04,00,000/- and he paid the stamp duty also. Subsequently, the respondents passed an order showing deficit stamp duty of Rs.9,30,800/- and



though he filed a writ petition, subsequently he paid deficit stamp duty with fine amount. Even subsequent to that, the respondent sent a demand notice stating that the land and building are valued more than Rs.2 Crore and he has to pay the difference in stamp duty. Challenging the same, the petitioner has filed the present writ petition.

3. The main contention raised by the learned counsel for the petitioner is that, under Section 47-A of the Indian Stamp Act, without any notice, enquiry and opportunity, arbitrarily, they have fixed the said value and made demand to pay difference in stamp duty at Rs.15,64,587/-. It is for the Registrar to give notice to the presentee and the presentee has to value by producing documents and without giving an opportunity, the Registrar cannot arbitrarily fix the land value and demand for payment of difference in stamp duty. He placed reliance on the judgment of the Madurai Bench of this Court in the case of J.Jeyaraj Vs. The District Registrar (Administration) reported in 2016-5-L.W.937.

4. The learned Additional Government Pleader submitted that they are ready to conduct fresh enquiry in the manner known to law and pass orders in accordance with law.



5. Considering the facts and circumstances of the case, though the Registrar has got a power to collect the difference in the stamp duty in case the document is under-valued, they can conduct enquiry and then only they can collect the stamp duty after fixing the market value of the property. There are no records to show that the respondents conducted enquiry in the manner known to law and passed the impugned order in accordance with law and based on that only, they made the demand. Though earlier, in respect of a sale deed, the respondents fixed Rs.9,31,300/- and requested the petitioner to pay the difference in stamp duty therein, but the petitioner has not raised the point regarding the conduct of enquiry for payment of necessary amount.

6. Now the petitioner is raising the objection that without any enquiry and opportunity, the Registrar cannot fix the value. However, it is the duty of the respondent/Registrar to conduct enquiry and fix the value after giving opportunity to the petitioner. This has not been done in this case. Therefore, the impugned notice dated nil.. , received by the petitioner on 23.10.2009 is set aside.

7. The respondents are directed to give opportunity to the petitioner



and conduct enquiry and pass orders in accordance with law within 3 months
from the date of receipt of copy of this order.

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8. With the above direction, the Writ Petition is disposed of. There
shall be no order as to costs.

19.10.2023

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No



To

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P.VELMURUGAN. J.

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