IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.35695 of 2015
and
M.P.No.1 of 2015

Mrs.Hameeda Yousuf Ali ... Petitioner

Vs.

The Sub Registrar,
Villivakkam,
Plot No.685, W Block,
Anna Naar West Extn,
Chennai – 600 101. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned notice dated 07.2015 bearing Naka.No.114/2010 and quash the same.

For Petitioner : Mr.Mohammed Fayaz Ali

For Respondent : Mr.T.Arun Kumar
Additional Government Pleader

O R D E R

The notice issued by the Sub Registrar, Villivakkam, dated July 2015 demanding deficit stamp duty in respect of the document registered by the petitioner is under challenge in the present writ petition.

2. The learned counsel for the petitioner mainly contended that the impugned notice was issued beyond the period of 3 years from the date of registration. Therefore, it is time barred and thus, the impugned notice is untenable.

3. However, calculation of the period of limitation is to be done based on the facts and with reference to the nature of document and the recitals therein. It is mixed question of facts and law, which is to be considered only after adjudication.

4. In certain cases, documents are presented for registration by hiding certain material facts to avoid payment of stamp duty. The Registering Authority is registering the document and subsequently during the audit verification or based on a complaint such ideal facts are noticed and

thereafter, actions are initiated for recovery of deficit stamp duty. There are numerous circumstances, where the parties are attempting to hide certain facts in order to evade payment of stamp duty under the Indian Stamp Act., 1899. Such complex nature of the facts requires an adjudication from the hands of the authorities.

5. In the present case, the Sub Registrar is incompetent to determine the market value and quantify the stamp duty.

6. The learned Additional Government Pleader appearing on behalf of the respondent brought to the notice of this Court that the Sub Registrar already recorded the document to the Deputy Collector (Stamps) under Section 47-A of the Indian Stamp Act, 1899. On account of the interim order granted in the present writ petitioner, the Deputy collector (Stamps) has not conducted any such adjudication.

7. The learned counsel for the petitioner states that the document was released.

8. May that as it be, the deficit stamp duty and issues correct therein are to be resolved by way of an adjudication in the reference already made in Section 47-A of the Indian Stamp Act, 1899.

9. The petitioner is at liberty to submit her defence along with the documents, if any during the course of adjudication. The competent authority shall proceed with the adjudication and pass appropriate orders on merits and in accordance with law as expeditiously as possible. With reference to the period of limitation, the authority competent is empowered to decide the same on merits.

10. The petitioner is permitted to raise all the objections including the limitation and also the grounds raised in the present writ petition.

11. With these observations, this Writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

25.08.2023

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

The Sub Registrar,
Villivakkam,
Plot No.685, W Block,
Anna Naar West Extn,
Chennai – 600 101.

S.M.SUBRAMANIAM, J.

Jeni

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