



WEB COPY

W.P.No.38704 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.38704 of 2016

and

W.M.P.Nos.33160 of 2016 & 2656 of 2018

1.K.Chakrapani Reddiyar (Deceased)

2.Mrs.Amsabai

3.Ramesh

... Petitioners

[P2 & P3 are substituted as LR's of deceased sole petitioner vide order dated 18.04.2023 in WMP.No.11153/2023 in WP.No.38704/2016]

Vs.

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

2.The District Registrar (Administration)
in the cadre of Asst Inspector General
of Registration, O/o. District Registrar,
No.9, Jeenis Road,
Saidapet, Chennai – 600 015.

3.The District Registrar
South Chennai,
No.9, Jeenis Road,
Saidapet, Chennai – 600 015.



4.The Sub Registrar,
Pammal SRO,
Kancheepuram District.

5.P.Dhanamary

6.J.Pushpanathan

7.Arulmary @ S.Lourdhu Ammal

8.P.Elizabeth Rani

9.P.Santhanamary

10.P.Rosaline

11.T.Kasthuribai

12.P.Mersi Florence

13.S.Peter

... Respondents

[R5 to R13 impleaded vide order dated 18.04.2023 made in
WMP.No.37056/2016 in WP.No.38704/2016]

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the entire records leading to the issuance of the impugned Exparte Order passed in proceedings No.7339/Aa1/2011 dated 01.02.2013 and the consequential order passed in Proceedings No. 7339/Aa1/2011 date 12.09.2016 based on the Exparte order passed by the 2nd respondent herein, quash the same and consequentially directing the 2nd respondent to conduct the enquiry afresh so as to enable the petitioner to put forth his case and to submit the explanation as I am not



liable to pay any stamp duty as demanded by the respondents under the impugned proceedings, so as to enable the petitioner to take recourse to appropriate legal remedy.

For Petitioners : Mr.Ravichandran Sundaresan
For R1 to R4 : Mr.S.Ravichandran
Additional Government Pleader

ORDER

The order passed by the District Registrar (Administration) raising demand of deficit stamp duty is sought to be quashed in the present writ petition.

2. The 1st petitioner states that he and his brothers are the owners of the immovable property as described and they presented and executed a deed of conveyance. The authorities competent, while scrutinising the deed of conveyance registered by the petitioners found that there is deficit of stamp duty and the District Registrar (Administration) passed an impugned order demanding a sum of Rs.69,17,000/- towards deficit stamp duty along with the penalty.



3. However, the order impugned itself states that the petitioner is at liberty to prefer an revision, which is contemplated under Section 56(1) of the Indian Stamp Act, 1899. The petitioner admittedly has not preferred revision.

4. This Court is of an opinion that the relevance and importance of the Appellate remedy contemplated under the Statutes, at no circumstances needs to be undermined by the Courts. Rule is to prefer an appeal. Dispensing with the appeal remedy is only an exemption and therefore, at all circumstances, the parties aggrieved are bound to exhaust the appellate remedy contemplated under the Statutes and Rules.

5. The power of judicial review under Article 226 of the Constitution of India is to ensure the processes through which a decision is taken by the competent authorities is in consonance with the Statutes and Rules, but not the decision itself. Thus, the disputed facts are to be adjudicated by the Original Authority as well as by the Appellate Authority based on the documents and evidences in original and such an adjudication cannot be under taken by the High Court in a writ proceeding.



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6. Hence, the benefit of Appeal or revision must be insisted upon the parties to get an opportunity to establish their case factually on merits. Such a valuable Statutory Right need not be taken away by the High Court and in the event of adjudication of disputed facts merely based on certain xerox copies of the documents filed along the writ petition, there is a possibility of error or mistake, which might occur in respect of the factual aspects.

7. Contrarily, the findings of the Original Authority and Appellate Authority together would be of greater assistance to the High Court for the purpose of exercise of judicial review in an effective manner under Article 226 of the Constitution of India. Thus, all the factual disputes are to be adjudicated and the findings are to be given by the Original Authority and in the event of existence of a Statutory remedy, the same is to be exhausted.

8. Since the petitioners have not exhausted the alternative remedy of revision contemplated under Section 56 (1) of the Indian Stamp Act, the petitioners are at liberty to prefer a Revision Petition. Accordingly, the petitioners are at liberty to prefer a Revision Petition within a period of four



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(4) weeks from the date of receipt of copy of this order. In the event of receiving any such Revision Petition from the petitioners, the competent authority / 1st respondent shall entertain the same by taking into consideration the period during which the writ petition was pending before the High Court and accordingly, decide the issues on merits and in accordance with law as expeditiously as possible.

9. With this liberty, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

18.04.2023

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



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S.M.SUBRAMANIAM, J.

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