



W.P.No.31540 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.31540 of 2023

and

WMP.Nos.31174 & 31175 of 2023

- 1.D. Kuppusamy
- 2.Mrs. K. Pattammal
- 3.Mrs. N. Vijayakumari
- 4.Mrs. G. Radhammal

... Petitioners

Versus

- 1.The State of Tamil Nadu,
Rep.by its Secretary to Government,
Commercial Taxes and Registration Department,
Fort St.George, Secretariat,
Chennai – 600 009.
- 2.The Inspector General of Registration,
No.100, Santhome High Road,
Pattinampakkam,
Chennai – 600 028.
- 3.The Deputy Inspector General of Registration,
Taluk Office Compound,
Veppamara Street,
Velappadi,
Vellore – 632 001.



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4.The Additional Inspector General
of Registration (Investigation),
No.100, Santhome High Road,
Pattinampakkam,
Chennai – 600 028.

5.The District Registrar (Audit),
District Registrar Office,
No.5/1, Durgai Amman Koil Street,
Tiruvannamalai – 606 601.

6.The District Registrar (Admn.)
District Registrar Office,
No.5/1, Durgai Amman Koil Street,
Tiruvannamalai – 606 601.

7.The Joint Registrar No.1,
District Registrar Office,
No.5/1, Durgai Amman Koil Street,
Tiruvannamalai – 606 601.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records pertaining to the impugned demand Notice No.3, dated 24.03.2023 for document No.2439/2020, dated 21.09.2020 issued by 7th respondent herein and quash the same.

For Petitioners : Mr. J. Selvarajan

For Respondents : Mr. Yogesh Kannadasan,
Special Government Pleader.



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ORDER

This Writ Petition is filed challenging the demand Notice No.3, dated 24.03.2023 for the Document No.2439/2020, dated 21.09.2020 issued by the seventh respondent.

2. The petitioners are the legal heirs of one Mr.Duraisamy and they have partitioned the property, vide Doc.No.1684/2020 dated 22.07.2020 in the Office of the Joint Registrar No.1, Tiruvannamalai District. Subsequently, the petitioners have also executed a Rectification Deed, vide Doc.No.2439/2020, dated 21.09.2020 in the same Registration office.

3. Thereafter, some third parties, who had nothing to do with the said deeds, made complaints to the District Registrar, Tiruvannamalai against the petitioners. Based on that, a notice dated 28.4.2022 came to be issued to the petitioners, to which, the first petitioner sent his reply dated 18.5.2022. Pursuant to that, the sixth respondent passed a detailed order dated 19.7.2022, after conducting an enquiry, by directing the parties to approach the competent Civil Court. It was further directed that as against



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the said order dated 19.7.2022, an appeal would lie to the third respondent.

Thereafter, based on the proceedings of the third respondent dated 23.11.2022, the seventh respondent issued three demand notices respectively dated 07.12.2022, 18.1.2023 and 24.3.2023. Challenging the third demand notice, the petitioners are before this Court.

4. The learned counsel for the petitioner would submit that without issuing notice, and without conducting enquiry, the respondents have issued the impugned Notice. Further, the sixth respondent stated in the order dated 19.07.2022 that the respondents have received a complaint and based on that, an enquiry was conducted and the order was passed. Even assuming that if such a complaint was received, the respondents have not stated as to under whose complaint and what complaint was received, and even if so, it is the duty of the respondents to serve notice on the petitioners or call for objection, and after receiving the same, the respondents can issue notice to the petitioners for conducting the enquiry in the manner known to law, and thereafter only, the respondents can pass order as deemed fit.



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5. Further, the learned counsel for the petitioner submitted that, in the instant case, no such procedures have been followed. Without giving notice and conducting enquiry, the third respondent passed the impugned order dated 23.11.2022, and after passing that order, the petitioner was issued with a demand notice dated 24.03.2023 to pay the difference in stamp duty with regard to the documents registered by the petitioners. Therefore, it seems that no opportunity of hearing has been given and the principles of natural justice had not been followed by the seventh respondent. The impugned demand notice issued by the seventh respondent is arbitrary and the same is liable to be set aside.

6. Heard the learned counsel for the petitioners and the learned Special Government Pleader appearing for the respondents.

7. Though the seventh respondent filed a counter affidavit, which has been adopted by the first and second respondents, in which, they have nowhere stated as to whether the notice was issued and enquiry was conducted and only based upon the materials, they have passed the impugned order and the demand notice was issued. On a question with



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regard to the issuance of notices, giving opportunity for hearing, to the respondents, they remained silent, and they were not in a position to prove the same. Therefore, the impugned Notice is liable to be set aside.

8. For the foregoing reasons, the impugned demand notice No.3, dated 24.03.2023 issued by the seventh respondent is set aside. The third respondent is directed to issue fresh notice to the petitioners and the rival claimants/interested parties if any, and conduct an enquiry in the manner known to law and pass orders on merits and in accordance with the law, within a period of two months from the date of receipt of a copy of this order.

9. Under the above circumstances, the petitioners are also directed to co-operate for the enquiry. The refusal of taking notice or evading to take notice, will not be encouraged.

10. With the above directions, the Writ Petition is allowed. No costs. Consequently, the connected W.M.P.No.31175 of 2023 is also closed.



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11. Accordingly to the W.M.P.No.31174 of 2023 filed to permit the petitioners to join together and file a single writ petition, is ordered on payment of separate Court fee by each of the petitioners.

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Index : Yes/No
Speaking order : Yes/No
N.C. C. : Yes/No

klt

To:

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State of Tamil Nadu,
Commercial Taxes and Registration Department,
Fort St.George, Secretariat, Chennai – 600 009.
- 2.The Inspector General of Registration,
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P. VELMURUGAN, J.

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