IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **21.12.2023**

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.32031 of 2023
and W.M.P.No.31617 of 2023

M/s.Omayal Achi MR. Arunachalam Trust,
Chennai–28 rep. by its Managing Trustee
Mrs.Valli Alagappan ...Petitioner

Vs.

1.The Inspector General of Registration,
Santhome High Road, Chennai.

2.The Sub-Registrar,
Redhills, Chennai.

3.A.M.M Foundation, rep.
by Mr.H.Narayanan. …Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the pending refusal check slip No.RFL/Redhills/9/2023 dated 23.06.2023 in respect of the property of an extent of 2.41 acres comprised in Old Survey No.461/1A1A part and 462/2 part New Survey No. 461/6 and 462/2B of Puzhal Village, Madhavaram, Chennai District and quash the same and consequently direct the 2nd respondent herein to register all the documents presented in respect of the property at Old Survey No.461/1A1A part and 462/2 Part, New Survey Nos.461/6 and 462/2B of Puzhal Village, Madhavaram Taluk, Chennai District.

For Petitioner	:	Mrs. A.L.Ganthimathi, SC for Mr. A.R. Karthiklakshmanan
For Respondents	:	Mr. Yogesh Kannadasan, SGP for R1 & R2
	:	Mr. S. Thanka Sivan (for R3)

ORDER

This Writ Petition has been filed challenging the Refusal Check Slip No.RFL/Redhills/9/2023, dated 23.06.2023 in respect of the property of an extent of 2.41 acres comprised in old S.Nos.461/1A1A part and 462/2B part, new S.Nos.461/6 and 462/2B of Puzhal Village, Madhavaram, Chennai District, issued by the second respondent.

2. The claim of the petitioner/Trust is as follows :

(i) It is a public charitable Trust. It has purchased a land of an extent of 1.52 acres comprised in S.No. 461/1A1A part and the adjacent land of an extent of 0.89 acres comprised in S.No.462/2 part, both at Puzhal Village, Ambattur Taluk, Tiruvallur District situated at Ambattur Road, Puzhal, Chennai–66 by way of two registered Sale Deeds both dated 13.03.2009 bearing Doc.Nos.1680 & 1681 of 2009 respectively, both on the file of the Sub-Registrar, Redhills from one M/s.SICAL Ligistics Limited, rep.by its Power of Attorney Agent one M/s. Renowned Engineering Pvt.Ltd.

(ii) When the petitioner/Trust decided to lease out the said properties along with ancillary buildings, for which, the petitioner and the third respondent had approached the second respondent to register the lease deed on 23.06.2023, but, it was rejected by the second respondent by issuing the Refusal Check Slip No.RFL/Redhills/9/2023 on the same day itself stating that there is a deficit stamp duty. After receiving the impugned order, the petitioner came to know that the second respondent had already received a circular from the State Accountant General that in respect of Doc.No.1680 of 2009, the petitioner had caused loss to the Government to the tune of Rs.23,91,899/-. However, without any prior intimation, the second respondent passed the impugned order. Aggrieved by the same, the Writ Petition is filed before this Court.

3. The learned Senior Counsel for the petitioner/Trust would submit that according to the petitioner/Trust, the lease deed was refused to be registered by the second respondent on the same day when it was presented, which would show that there is intention not to register the same, that till date the petitioner/Trust did not receive any notice under the statute nor any intimation with regard to the deficit stamp duty or

otherwise. Though the second respondent made the observation in the refusal check slip that there was a great loss caused to the State Exchequer to the tune of Rs.23,91,899/- by the petitioner/Trust, all these things are pending only in an internal audit, that neither the Audit report was sent to it nor the objection for not registering the document concerned was intimated to the petitioner, and till date, the petitioner was not called for any explanation nor any notice was issued under the statute. Without giving any notice and without giving any opportunity of hearing to the petitioner, the second respondent simply withheld the document and issued the refusal check slip, which is against the principles of the natural justice is totally illegal and hence, it is liable to be set aside.

4. Heard the learned Senior Counsel appearing on behalf of the petitioner, the learned Special Government Pleader appearing for respondents 1 & 2 and the learned counsel appearing for the third respondent and perused the materials available on record.

5. Even though, this Court had given sufficient opportunity to the official respondents, they have not filed any counter. Further, the

respondents have not produced any materials to show that the notice under the statute was issued to the petitioner and the enquiry was conducted in a manner known to law. Though it was stated in the impugned order that action was taken under Section 47A(3) of the Indian Stamp Act with regard to the deficit amount to be paid by the petitioner, in the absence of any document to substantiate the action taken under Section 47A(3) of the Indian Stamp Act, the impugned order passed by the second respondent is unsustainable.

6. Therefore, considering the facts and circumstances of the case, the second respondent is directed to issue notice to the petitioner/Trust as well as the third respondent and the rival claimants/interested parties if any, conduct an enquiry in a manner known to law and pass appropriate orders on merits and in accordance with law. The said exercise shall be completed within a period of two months from the date of receipt of a copy of this order. The petitioner/Trust is also directed to extend their fullest cooperation so as to enable the second respondent to complete the enquiry proceedings within the above stipulated time.

7. With the above observations and directions, the Writ petition is disposed of. No costs. Consequently, WMP.No.31617 of 2023 is also closed.

21.12.2023

Index : Yes/No
Speaking order : Yes/No
Neutral Case Citation : Yes/No

To:

1.The Inspector General of Registration,
Santhome High Road, Chennai.

2.The Sub-Registrar, Redhills, Chennai.

klt

P. VELMURUGAN, J.

klt

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and
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