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W.P.No.17924 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.17924 of 2017
and
W.M.P.Nos.19453 & 19452 of 2017

K.Radha

...Petitioner

-Vs-

1. The Special Deputy Collector (Stamps)
O/o. the District Collector
Sathuvachari, Vellore 632 009

2. The Sub Registrar
Kilpennathur-604 601,
Tiruvannamalai District.

3. The Taluk Executive Magistrate and Tahsildar
Kilpennathur Taluk, Tiruvannamalai.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the records relating to the impugned notice issued by the 2nd respondent in his office ref.Va.No.Aa No.1179/2013, dated 15.11.2016 quash the same forbearing the respondents from proceeding against the petitioner under the Revenue Recovery Act or taking any other action for the recovery of the amount stated in the said impugned notice with respect to Document No.1179/13 on the file of the 2nd respondent.



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For Petitioner : Mr.P.Mani

For Respondents : Mr.T.Arun Kumar

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ORDER

The notice issued by the 2nd respondent in a letter dated 15.11.2016 is sought to be quashed in the present writ petition and to forebear the respondents from proceeding against the petitioner under the Revenue Recovery Act.

2.The petitioner stated that he filed a Civil Suit in O.S.No.100 of 2004 for specific performance of the sale agreement dated 22.12.2001. The Suit was decreed in favour of the writ petitioner on 15.04.2004. Thereafter, he filed execution proceedings which was also allowed on 17.01.2006. Pursuant to the order passed in the execution proceedings, the sale deed was executed by the District Munsif at Tiruvannamalai on 24.05.2013. The said sale deed was registered as document No.1179 of 2013 on the file of the Sub Registrar, Kilpenathur/2nd respondent.

3.The grievances of the writ petitioner is that the stamp duty was questioned by the Sub-Registrar and they have initiated proceedings under Section 47 (a)(1) of the Act to determine the market value of the property



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for the purpose of payment of stamp duty under the Indian Stamp Act.

Without conducting any inquiry and adjudication, the impugned notice had been issued unilaterally under the provisions of the Revenue Recovery Act. Thus, the petitioner is constrained to move the present writ petition.

4.The learned counsel for the petitioner reiterated that neither any inquiry was conducted nor a final order was issued. The recovery notice was issued even before conducting an inquiry by invoking the Revenue Recovery Act and thus, the impugned order is in violation of not only the provisions of the Act, but also the Principles Of Natural Justice. The petitioner was not provided with an opportunity to defend his case under Section 47(a) of the Act.

5.The learned Additional Government Pleader appearing on behalf of the respondents is unable to establish that an inquiry was conducted under Section 47(a) of the Registration Act for the purpose of determining the market value of the subject property, so as to demand stamp duty under the Indian Stamp Act.

6.This being the factum established, the impugned notice issued by



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the second respondent in the proceeded ref.Va.No.Aa No.1179/2013, dated 15.11.2016, is quashed and the matter is remanded back to the first respondent who in turn is directed to conduct an adjudication with reference to the document referred under Section 47(a) of the Registration Act by affording opportunity to the writ petitioner and thereafter, pass final orders of merits and in accordance with the law, determining the market value for the purpose of payment of stamp duty under the Indian Stamp Act. Thereafter, the petitioner is at liberty to take a decision either to pay the differential stamp duty, if any is claimed, or settle the issues as the case may be.

7.With these directions, the present writ petition stands **allowed**. No costs. Consequently, the connected miscellaneous petitions are closed.

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

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To



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S.M.SUBRAMANIAM. J.,

(sha)

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