IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.28352 of 2005
and
W.P.M.P.No.30872 of 2005

Paramakudi Ilayankudi Taluk Mukkulathor
Nala Abhivridhi Sangam represented by
its Secretary at No.3/52, Gandhiji Road,
Paramakudi. (Registration No.31/90) ... Petitioner

Vs.

1.The Inspector General of Registration
cum The Chief Controlling Revenue Authority,
Chennai – 600 028.

2.The District Registry,
Sivaganga. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the 1st respondent in Pa.Mu.No.45537/ppi(1)/2002 and quash the order passed on 09.12.2004.

For Petitioner : Mr.E.Tamilarasan
For Mr.T.Srinivasa Raghavan

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

O R D E R

The order of rejection, rejecting the case of the writ petitioner to grant exemption from stamp duty under Article 55 of the Indian Stamp Act in proceedings dated 09.12.2004 is under challenge in the present writ petition.

2. The petitioner is the Paramakudi Ilayankudi Taluk Mukkulathor Nala Abhivridhi Sangam a Society registered under the Tamil Nadu Societies Registration Act. The petitioner states that a building bearing No.20, Gandhiji Road, Paramakudi originally belonged to the Village Officers Association. The Government of Tami Nadu abolished the Village Officers system and thereafter, the Village Officers Association constituted a sales Committee for the disposal of the assets of the Village Officers Association.

3. The petitioner / Association purchased the said building for valuable consideration from the Sale Committee under Sale Deed dated 03.08.1998. One Mr.Muthusamy and Nagarathnam executed a Consent Deed dated 06.08.1998 and thereafter, Mr.Manoharan executed a Consent Deed dated 17.01.2001 thereby acknowledging the Sale Deed dated 03.08.1998. The petitioner became the owner of the building. One Mr.Alagusbbu Thevar son

of Sivasamy Thevar claims to have purchased the south western portion of the building through six different sale deeds. The issue revolving in the present writ petition is that the petitioner / Society presented a release deed for registration and the said release deed was registered and thereafter, the authorities found that the deficit of stamp duty is to be recovered from the petitioner / society. The respondents have stated under Section 23 of the Indian Stamp Act, the release deed is to be construed as conveyance and therefore, the petitioner / Society has to pay the stamp duty as admissible.

4. The petitioner preferred a revision petition under Section 56(1) of the Indian Stamp Act, 1899 before the 1st respondent / The Inspector General of Registration cum Chief Controller Revenue Authority rejected the said revision petition on the ground that the release deed presented by the petitioner is a Conveyance falling under Article 23 of the Indian stamp Act, 1899.

5. Against the order passed by the Chief Controlling Revenue Authority under Section 56(1) of the Indian Stamp Act, no writ is entertainable and aggrieved person is at liberty to prefer Civil Miscellaneous Appeal under the

provisions of the Indian Stamp Act.

6. In the present case, the factual position was established before the 1st respondent that certain properties have been purchased by the release registered in the year 1985 and 1990. Whereas the releasee has also purchased the same property, in order to resolve the rival claims, the impugned release deed was entered upon by the rival parties. It would be pertinent to note that the releasor has acquired rights over the property in the year 1985 itself i.e., well before the registration of documents in favour of the release in the year 1998. Therefore, in the eye of law, the releasee does not have impeccable right over the property and as such that the relasee deed in question actually transfers the title from Mr.C.Azhagu Subbu (releasor) in favour of 'Paramakudi Vatta Illayankudi Vatta Mukkuloathor Naia Abhivridhi Sangam (releasee).

7. When a property right has been transferred through release deed, then a document would fall under Article 23 of the Indian Stamp Duty. Therefore, this Court do not find any infirmity in respect of the findings given by the 1st respondent in the impugned order. The petitioner is at liberty to pay the deficit stamp duty and get the document released by following the

procedures.

8. Accordingly, the Writ Petition is devoid of merits and stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

11.09.2023

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

1.The Inspector General of Registration
cum The Chief Controlling Revenue Authority,
Chennai – 600 028.

2.The District Registry,
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S.M.SUBRAMANIAM, J.

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