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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.913 of 2021

Santhana Kumar

... Petitioner

Vs.

1. The Inspector General of Registration,
No.100 Santhome High Road,
Pattinampakkam,
Chennai- 600 028.

2. The Special Deputy Collector (Stamps),
No.104 Old Ramnad Road,
Collectorate,
Madurai-20

3. The District Registrar,
District Registrar Office,
No.52 Sankar Agam South Agraharam,
Thenkarai, Periyakulam,
Theni District -626 501.

4. The Sub Registrar,
Sub Registrar Office,
Uthamapalayam,
Theni District-625 533.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the entire records in relating to the impugned proceedings of the 2nd respondent in S.R.No.119/09 UPM, dated 20.03.2014 and in S.R.No.119/09 UPM dated 30.05.2014 as well as consequential impugned order, dated 13.08.2021 of the 1st respondent in Moo.Mu.No.26788/N3/2019, dated 13.08.2021 and to quash the same and consequently to direct the 4th respondent to release the petitioner's registered sale deed in document no.64/2009, dated 12.01.2009 within the time limit that may be stipulated by this Court.

(Prayer amended vide Court Order dated 22.08.2023)

For Petitioner : Mr.M.S.Jeyakarthik

For Respondents : Mr.A.K.Manikkam
Special Government Pleader

ORDER

This writ petition is filed for Writ of Certiorarified Mandamus to quash the impugned proceedings of the 2nd respondent in S.R.No.119/09 UPM, dated 20.03.2014 and in S.R.No.119/09 UPM, dated 30.05.2014 as well as consequential impugned order, dated 13.08.2021 of the 1st respondent in Moo.Mu.No.26788/N3/2019, dated 13.08.2021 and to direct the 4th respondent to



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release the petitioner's registered sale deed in Document No.64 /2009, dated 12.01.2009 by considering the petitioner's representation, dated 09.02.2019 and 15.03.2019 and 16.09.2020.

2. Heard Mr.M.S.Jeyakarthik, the Learned counsel appearing for the Petitioner, Mr.A.K.Manikkam, the Learned Special Government Pleader appearing for the respondents and perused the material documents available on record.

3. Pending writ petition, the 1st respondent had passed an order dated 13.08.2021. Therefore, the petitioner has filed an amendment petition to amend the prayer in W.M.P(MD)No.16606 of 2023 and the same was allowed on 22.08.2023.

4. The contention of the petitioner is that the land in S.No.52/5 situated in Muthulapuram Village, Uthamapalayam Taluk, Theni District. Originally, the land belongs to one Ramu Thai and her sister namely



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Muthulakshmi. The petitioner is son of the said Ramu Thai. The petitioner's mother and the said Muthulakshmi (Mother's sister) have executed a Sale deed in favour of the petitioner. The sale deed was properly submitted along with stamp duty on 22.10.2008 and the same was registered in Document No.64/2009. But the sale deed was not released by the 4th respondent. Therefore, the petitioner has approached the 4th respondent and asked the reason for withholding the sale deed. In reply, the 4th respondent informed that the value of the above property was shown as Rs.2,59,665/-in the sale deed. As per Government guideline, the value of the land was Rs.20,48,328/-.

5. The contention of the petitioner is that the land is an agricultural land and the petitioner has also erected bore well. But in the Government guideline value, the land was shown as house site and taking the same as house site the respondents have fixed the guideline value and the same is incorrect. Hence, in order to rectify the same, the petitioner has submitted a representation in the year 2008. On receipt of the aforesaid representation, the 3rd respondent directed the petitioner to approach the 2nd respondent under Section 47(A)(1) of the Indian Stamps Act. The petitioner has submitted a representation on



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14.02.2009 to the 2nd respondent and requested to determine the stamp value by considering the land as agricultural land. In the meanwhile, the 4th respondent has issued a Samathan Notice, dated 09.11.2011 to the petitioner and directed to pay 2/3 share of Stamp duty for returning the aforesaid sale deed. Since the determination of appropriate market value was pending before the 2nd respondent, pursuant to his representation, dated 14.02.2009, the petitioner did not avail the benefits of samathan scheme.

6. The further contention of the petitioner is that the 2nd respondent has not considered the petitioner's representation, dated 14.02.2009. Thereafter, it came to knowledge of the petitioner that the 2nd respondent has already passed an order, dated 20.03.2014 and 30.05.2014.

7. The specific contention of the petitioner is that the order of the 2nd respondent, dated 20.03.2014 and 30.05.2014 were never served on him. Moreover, before conducting enquiry, the 2nd respondent has not afforded appropriate opportunity to the petitioner. Therefore, the impugned orders dated 20.03.2014 and 30.05.2014 are violating the principles of natural justice. The



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further contention of the petitioner is that the respondents have taken the market value by treating the land as housing plots and the same is incorrect.

8. Moreover, the respondents have relied on the Sale deed executed by one A. David Raja in favour of the P.Raju through a Sale deed, dated 04.01.2007. In the said Sale deed, even though, it is stated that the Village as Muthulapuram, the proper village is Uttkadai (உட்கடை), Oothupatti @ Malayndipuram. The said Sale deed stated as vacant house site.

9. On perusal of the Sale deed in favour of the petitioner, it is stated that land admeasuring as 2 acres 61 cents of Punjai land. Therefore, the petitioner submitted that the respondents cannot take the market value as housing plot and the respondents are bound to take the land as agricultural land. The said fact was not taken by the 2nd respondent before passing the impugned order. Therefore, the respondents have clearly erred in fixing the market value applicable to the housing plots. But the respondents are bound to apply the rate of market value applicable for agricultural land.



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10. The Learned Special Government Pleader submitted that, as per guideline value, the respondents would take the village under Muthulapuram. It is seen that the 1st respondent has taken into consideration the Malayandipuram @ Oothupatti and in Malayandipatti there are only house sites. But the petitioner's land is in Chinna Ramagoundan Patti village and the place has not been divided into housing plots. Still the said land is being used as agricultural lands. Therefore, the guideline value prescribed is incorrect and the same ought to be rectified / modified. The respondents cannot rely on wrong guidelines. The respondents are bound to rectify their mistake. By quoting wrong guideline and they cannot retain the document.

11. Accordingly, the impugned proceedings of the 2nd respondent in S.R.No.119/09 UPM, dated 20.03.2014 and in S.R.No.119/09 UPM, dated 30.05.2014 as well as consequential impugned order, dated 13.08.2021 of the 1st respondent in Moo.Mu.No.26788/N3/2019, dated 13.08.2021 are hereby quashed. The respondents are directed to rectify the guideline value. Thereafter consider the case of the petitioner. The exercise shall be completed within a period of Eight weeks from the date of receipt of a copy of the order. The



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respondents shall continue with the proceedings as per law. However, with an endorsement the Sale deed may be returned to the petitioner.

12. With these observations, this Writ petition is allowed. There shall be no order as to costs.

04.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To

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