



W.P.(MD) No.4590 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.4590 of 2020

K.Lakshmi (Died)

Vairavan

.. Petitioner

*[Petitioner - Substituted vide order dated
24.04.2023 in W.M.P.(MD) No.6575 of 2023
in W.P.(MD) No.4590 of 2020]*

Vs.

- 1.The Inspector General of Registration of Tamilnadu,
O/o. The Inspector General of Registration,
Santhome High Road, Chennai.
- 2.The District Registrar,
Periyakulam Registration District,
Periyakulam.
- 3.The Deputy Collector (Stamps),
Madurai District,
O/o. Madurai District Collectorate,
Madurai.
- 4.The Sub Registrar,
Usilampatti Sub Registration,
Usilampatti, Madurai District.



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5.J.Nishalini

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the 4th respondent's records of refusal check slip in RFL/Usilampatti/22/2020 dated 13.02.2020 by which demanded from petitioner to pay the sum of Rs.11,36,442/- on account of deficit of stamp duty and registration fees on the document No.198 of 2002 and quash the same as illegal and arbitrary and in consequently direct the 4th respondent to receive the document No.TP/86143674/2020 pertaining to property 4410.5 sq ft comprised in S.No.159/4B1 situated in Usilampatti Village, Madurai District and register the same if it is in order.

For Petitioner : Mr.P.Ganapathi Subramanian

For RR1 to 4 : Mr.T.Amjadkhan
Government Advocate

For R5 : No appearance

ORDER

The prayer in the writ petition reads as follows:

“For the reasons stated in the accompanying affidavit, it is therefore prayed that this Hon'ble Court may be pleased to issue a Writ or order or direction in the nature of Writ of Certiorarified Mandamus thereby call for the fourth respondent's



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records of refusal check slip in RFL/Usilampatti/22/2020 dated 13.02.2020 by which demanded from petitioner to pay the sum of Rs.11,36,442/- on account of deficit of stamp duty and registration fees on the document No.198 of 2002 and quash the same as illegal and arbitrary and in consequently direct the fourth respondent to receive the document No.TP/86143674/2020 pertaining to property 4410.5 sq ft comprised in S.No.159/4B1 situated in Usilampatti Village, Madurai District and register the same if it is in order and pass such other or further orders as this Honourable Court may deem fit and proper in the nature and circumstances of this case and thus render justice.”

2. It is the case of the petitioner's mother that on 06.02.2002, joint family properties of the fifth respondent and her family members had been partitioned among eight minor coparceners, which included the fifth respondent. The same was duly registered as Document No.198 of 2002. Under this partition deed, a land measuring an extent of 3212.5 sq. ft comprised in S.No.159/4B1, Usilampatti Village, Madurai and others were allotted to the share of the fifth respondent, besides other



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properties. The petitioner's mother had purchased 4410.5 sq. ft. of land from the fifth respondent for a valid consideration of Rs.4,00,000/- and the sale deed was duly registered as Document No.3023 of 2010 on 27.08.2010.

3. Thereafter, the petitioner's mother, who was not keeping good health, decided to settle the property on the petitioner under a gift settlement deed dated 06.02.2020 and the same was presented for registration. A temporary registration number was allotted by the fourth respondent. However, to the utter shock and surprise of the petitioner's mother, the fourth respondent refused to register the same and returned it with a refusal check slip in RFL/Usilampatti/22/2020 dated 13.02.2020, which is the subject matter of challenge in this writ petition.

4. It appears that the partition deed bearing Document No.198 of 2002, which was registered in favour of the fifth respondent and others had been short levied of stamp duty of Rs.7,52,627/- and registration fee of Rs.3,83,815/- totalling a sum of Rs.11,36,442/-. This amount was



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sought to be recovered from the petitioner's mother by demanding her to pay the entire amount. Aggrieved by the said order, the petitioner's mother has filed this writ petition.

5. Heard the learned counsel on either side.

6. The partition deed which is now claimed to be short levied of stamp duty pertains to a larger extent of land. That apart, the fourth respondent has registered the sale deed in favour of the petitioner as early as on 27.08.2010 without making such a claim. The partition deed has been registered as early as in the year 2002. The property, that is, now sought to be settled is only a small portion of the said land. The fourth respondent, who has released the partition deed in the year 2002 and registered the sale deed with reference to small portion in 2010, cannot be permitted to claim any deficit stamp duty and registration fee in respect of 2002 deed now. The impugned order is, therefore, unsustainable and *ex facie* erroneous and is liable to be set aside. Accordingly, this Writ Petition is allowed and the impugned refusal



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check slip in RFL/Usilampatti/22/2020 dated 13.02.2020 is set aside.

The fourth respondent is directed to register the settlement deed dated 06.02.2020 within a period of three weeks from the date of re-submission of the same. No costs.

7. Registry is directed to return the original settlement deed to the petitioner to enable him to re-submit the same to the Sub Registrar concerned.

24.04.2023
($\frac{1}{2}$)

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

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To

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P.T.ASHA, J.

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Dated: 24.04.2023
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