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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2023

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.5885 of 2022

M.A.Jaffar Sathik ... Petitioner

Vs.

1.The District Revenue Officer (Stamps) /
Special Deputy Collector (Stamps),
Office of the Special Deputy Collector (Stamps),
Registration Department,
Madurai.

2.The Sub Registrar,
Nagalnaickenpatti Sub-Registrar Office,
Dindigul.

3.The Authorised Officer,
Canara Bank,
ARM Branch,
Madurai. ... Respondents

<u>Prayer</u> : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent in fixing market value as Rs.5,26,78,922/- and consequent demand of deficit stamp duty of Rs.34,17,179/- under section 47(A) of the Indian Stamp Act dated 08.06.2021 and impugned Form-I Notice issued under Rule 4 of the Tamilnadu Stamp (Prevention of Undervaluation of

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Instruments) Rules, 1968 dated 08.06.2021 by the 1st respondent and quash the same as illegal and consequently, direct the respondents 1 and 2 to release the original Sale deed registered in Document No.2980/2021 dated 29.04.2021 and kept as pending document in No.P29/2021 to the petitioner forthwith.

For Petitioner	: Mr.R.R.Kannan
For R1 and R2	: Mr.M.Prakash Additional Government Pleader
For R3	: Mr.C.Karthik

ORDER

This writ petition has been filed in the nature of certiorarified mandamus seeking records of the second respondent / Sub Registrar, Nagalnaickenpatti Sub-Registrar Office, Dindigul, whereby, the second respondent has fixed the market value of the property which is the subject matter of the writ petition at Rs.5,26,78,922/- and had consequently directed the petitioner herein to pay deficit stamp duty of Rs.34,17,179/- under Section 47A of the Indian Stamp Act. The said order by the second respondent was dated 08.06.2021. The petitioner was also issued with a Form-I notice under Rule 4 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1986 on 08.06.2021 by the first respondent. The petitioner seeks to quash both the order and the said notice and also seeks a further direction to release the original sale

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deed registered as document No.2980 of 2021 dated 29.04.2021 kept pending as Document No.P29/2021.

2. In the affidavit filed in support of the writ petition, the petitioner had stated that the third respondent / Authorised Officer, Canara Bank, ARM Branch, Madurai, had issued a notice of sale of the property on public auction on 06.02.2021. The sale was scheduled on 10.03.2021 and rescheduled to 26.03.2021. The petitioner participated in the auction and he had quoted a total sum of Rs.38,62,000/- and was declared as the successful bidder on 26.03.2021. He had remitted the entire sale consideration to the third respondent. The third respondent also issued certificate of sale by order dated 08.04.2021. The petitioner presented the certificate of sale for registration on 28.04.2021. It was registered on 07.06.2021 as Document No.2980 of 2021 by the second respondent. Subsequently, by a further order, it was kept pending as Document No.P29/2021. The petitioner was then issued with a notice under Section 47A of the Indian Stamps Act, directing him to pay deficit stamp duty of Rs. 34,17,179/-. The petitioner was given an option to give a representation in this regard to the District Registrar (Registrations), Madurai. The petitioner had given such a representation protesting against the demand of additional stamp duty by representation dated 24.06.2021. In the said representation, the petitioner had raised issues on facts stating that the guideline values as insisted

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by the respondent are not correct and that the adjacent land which was also simultaneously brought up for auction on the very same date had been valued at a much lesser rate of that of the petitioner's lands.

3. Mr.R.R.Kannan, learned counsel for the petitioner had invited the attention of this Court to a judgment reported in ***2018 (3) CTC 513, [R.Mohan (died) Vs the Sub Registrar (District Registrar, South Chennai) and others]*** wherein a learned Single judge had dealt with a very similar issue of additional stamp duty to be paid under Section 47A of the Indian Stamps Act, with respect to a property purchased through public auction conducted by the Income Tax authorities. After referring to a catena of judgments, the learned Single Judge had finally directed that the documents should be registered on the value for which it was purchased in a public auction and had also issued a positive direction to the Sub Registrar therein to release the document. A counter affidavit had been filed by both the first and second respondent. They both stated that the land value is Rs.1273/- per Sq.mtr and on that basis owing to the surrounding area, the total value of the property was arrived at Rs.5,27,64,250/- and stamp duty was determined. On that basis the petitioner was called upon to pay the deficit stamp duty.

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4. The learned Additional Government Pleader who argued on behalf of the respondent insisted that the petitioner should pay the stamp duty as on the basis of the guideline value and not on the basis of the auction price for which the petitioner had purchased. The learned Additional Government Pleader pointed out the surrounding lands and stated that the property of the petitioner is within the city limits and not in the rural area. It is therefore insisted that the demand made on the petitioner is proper. However, in the representation given by the petitioner herein, the judgment referred upon had not been referred by the petitioner herein.

5. The petitioner may therefore, give a representation in addition to the representation already given, by enclosing the judgment reported in ***2018 (3) CTC 513*** (cited above) and the authority may examine the ratio laid down in the said judgment and then pass necessary orders on the representation of the petitioner herein. The authority must be aware that the judgment of a Court has binding effect and should be followed by all authorities. Therefore, after obtaining necessary legal opinion may proceed further to register the sale deed, if the judgment is deemed binding and take necessary steps to release the document to the petitioner herein. The entire exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order. The petitioner may be put on notice and thereafter a considered order may be

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passed. If it is still insisted that additional stamp duty will have to be paid even then a considered order may be passed. It is only appropriate that an order with reasons is passed by the respondent herein.

6. This writ petition is disposed of. No costs.

27.03.2023

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

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To

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Special Deputy Collector (Stamps),
Office of the Special Deputy Collector (Stamps),
Registration Department,
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2.The Sub Registrar,
Nagalnaickenpatti Sub-Registrar Office,
Dindigul.

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C.V.KARTHIKEYAN, J.

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