BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP.(MD).No.18788 of 2023

M. Nesamanohar @ Manoharan ... Petitioner

Vs

1.The Inspector General of Registration,
Office of the Inspector General of Registration,
Chennai.

2.The District Registrar,
Office of the District Registrar,
Ariyalur District.

3.The Sub Registrar,
Sub Registrar Office,
Lalgudi,
Trichy District. ... Respondents

Prayer: 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 relating to the impugned proceedings of the third respondent in Refusal Chck Slip in Refusal Number RFL/Lalgudi/103/2023 dated 06.07.2023 and quash the same as illegal and further directing the third respondent to entertain the sale deed dated 06.07.2023 for registration.

For Petitioner : Mr.T.Lenin Kumar
For Respondents : Mr.M.Sarangan
Additional Government Pleader

ORDER

This Writ petition is filed as against the Refusal Check Slip issued by the third respondent, refusing the registration of a sale deed, presented by the petitioner, on the ground that the property was valued lesser than the guideline value.

2.Mr.M.Sarangan, learned Additional Government Pleader, who takes notice for the respondents submits that the property was valued lesser than the guideline value and hence the Sub Registrar, Lalgudi has rightly issued the refusal Check Slip on 06.07.2023 and hence there is no reason to interfere with the same.

3.This Court considered the rival submissions made and also perused the materials placed on record.

4.If the third respondent is not satisfied with the valuation in the document, he shall refer the same to the Collector under section 47A of the Indian Stamp Act only after registering the same. The Full Bench of this Court in ***Karmegam. G.V.The Joint Sub-Registrar, IV, Madurai*****[2007 (5) CTC 737]**, held as follows,

> "*6. A careful reading of the above provision (Section 47-A(1)(2)(3)) would show that if the Registering Officer has reason to believe that the market value of the property, which is the subject of conveyance, has not been truly set forth, he may, after registering such instrument, refer the same to the Collector for determination of proper market value of the property. The rationale behind the said Section is to neutralise the effect of undervaluation of the property, with a view to avoid evading stamp duty.*
>
> *7. Registration of document is a sine qua non for referring the matter to the Collector, if the Registering Officer believes that the property is undervalued. No*

> *jurisdiction has been conferred on the Registering Officer to refuse registration, even if the document is undervalued. Besides, there is no authority for him to call upon the person concerned to pay additional stamp duty. Collector is the prescribed authority to determine the market value, after affording a reasonable opportunity of hearing to the parties. The Registering Officer cannot make a roving enquiry to ascertain the correct market value of the property by examining the parties. However, it is expected that he has to give reasons for his conclusion for undervaluation, however short they may be. He can neither delay nor refuse registration of the instrument, merely because the document does not reflect the real market value of the property. In order to reach a conclusion, there is no bar for the Registering Officer to gather information from other sources, including official or public record. Valuation guidelines, prepared by the revenue officials periodically, are intended with an avowed object of assisting the Registering Officer to find out prima facie, whether the market value set out in the instrument has been set forth correctly."*

5.This Court in ***Rajappa B.V.The Special Deputy Collector*** **[2002 (3) CTC 544]**, issued the following directions with regard to reference under Section 47A of the Indian Stamp Act,

15.*While appreciating the anxiety expressed on behalf of the State by the learned Advocate General, this Court directs that : -*

"*i) It is open to the Registering Authority to affix a seal, while releasing the original deed or conveyance or any other document indicating that a reference is pending under Section 47-A with respect to under-valuation and assessment of Stamp Duty payable, as and when the proceedings reach finality, the same shall be intimated to the person who is liable to pay stamp duty demanding payment of deficit Stamp Duty payable on the instrument.*

ii) The Registrar to make corresponding entries under Sections 54,55 of The Registration Act, 1908, in the Register of indexes as to pendency of proceedings under Section 47-A.

iii) On completion of adjudication as to the under-valuation by the competent authority as well as appeal or revision, if any, thereof, and depending upon the ultimate decision, the said authorities to recover deficit stamp duty according to law.

> *iv) Till such proceeding reaches finality and deficit is paid, there will be a charge for the deficit stamp duty, which is the subject matter of transfer or conveyance.*
>
> *v) On payment of deficit stamp duty, if any payable, the Registrar may once again, on production of the original deed of transfer, make appropriate entry and recording the additional stamp duty paid and release of charge and also make consequential entries in the registers/indexes maintained under Sections 54, 55, etc., of The Registration Act."*

6.In view of the above, the impugned order is set aside. This writ petition is disposed of with a direction to the respondents to register the document and proceed further under Section 47A of the Indian Stamp Act. No costs. Consequently, connected Miscellaneous Petition is closed.

03.08.2023

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

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B.PUGALENDHI, J.

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Order made in
WP.(MD).No.18788 of 2023

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