



W.P.(MD)Nos.1983, 1984, 1985, 1986 and 1987 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.1983, 1984, 1985, 1986 and 1987 of 2015
and
M.P.(MD)Nos.1, 1, 1, 1 and 1 of 2015

P.Kannammai	... Petitioner in W.P.(MD)No.1983 of 2015
SP.Alagappan	... Petitioner in W.P.(MD)No.1984 of 2015
AL.Saraswathy	... Petitioner in W.P.(MD)No.1985 of 2015
SP.Alagappan	... Petitioner in W.P.(MD)No.1986 of 2015
VR.Chinna Arunachalam	... Petitioner in W.P.(MD)No.1987 of 2015

Vs.

- 1.The Inspector of General of Registration,
Registration Department, Santhome High Road,
Chennai 28.
- 2.The Deputy Inspector of General of Registration,
Registration Department, Madurai Zone,
Madurai..
- 3.The District Registrar,
District Registrar Office,
Karaikudi, Sivagangai District.



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4.The Joint Sub-Registrar -I,
Karaikudi,
Sivagangai District.

... Respondents in all W.Ps

Common Prayer : Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned notice issued by the 4th respondent, dated 28.01.2015 and 21.01.2015 respectively and quash the same.

(In all W.Ps)

For Petitioner : Mr.VR.Shanmuganathan,
For Mr.AL.Kannan

For Respondents : Mr.S.Shanmugavel,
Addl. Government Pleader.

COMMON ORDER

Heard the learned counsel on either side.

2.The petitioners respectively purchased the petition mentioned properties vide sale deeds dated 12.03.2014. The sale deeds were



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presented for registration. They were duly registered and also released.

Subsequently, the registering authority issued the impugned notices dated 28.01.2015 and 21.01.2015 respectively calling upon each of the petitioners to pay certain sum of money towards deficit stamp duty. Challenging the same, these writ petitions came to be filed. Interim order was granted subject to payment of 50% of the demand. It appears that the petitioners have settled the entire demand.

3.The learned Additional Government Pleader would submit that therefore, these writ petitions have become infructuous. I cannot accept the said contention. The payments were made by the petitioners during the pendency of the writ petitions. Therefore, the rights of the parties would abide by the out of the litigation. The impugned orders will have to be necessarily tested on merits.

4.The registering authority does have the power to demand payment of deficit stamp duty. Section 33-A of the Indian Stamp Act, 1899 confers the said power. It reads as follows:-



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“33-A. Recovery of deficit stamp duty.-(1) Notwithstanding anything contained in section 33 or in any other provisions of this Act, if after the registration of any instrument under the Registration Act, 1908 (Central Act XVI of 1908), it is found that the proper stamp duty payable under this Act in respect of such instrument has not been paid or has been insufficiently paid, such duty or the deficit, as the case may be, may, on a certificate from the Registrar of the district under the Registration Act, 1908 (Central Act XVI of 1908) be recovered from the person liable to pay the duty, as an arrear of land revenue.

Provided that no such certificate shall be granted unless due inquiry is made and such person is given an opportunity of being heard:

Provided further that no such inquiry shall be commenced after the expiry of three years from the date of registration of the instrument.”

5.The procedure set out in the provision will have to be complied with. The first requirement is that the District Registrar must issue certificate after giving the noticee an opportunity of being heard. In these cases, the petitioners have taken a specific ground that the District Registrar either issued any certificate nor put them on notice. I am more than satisfied that the procedure set out in Section 33-A of the Act has



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not been complied with. The orders impugned in these writ petitions are set aside and the writ petitions are allowed.

6.The sale deeds are dated 12.03.2014. The impugned orders were issued on 28.01.2015 and 21.01.2015 respectively. This Court had granted stay on 04.03.2015. Therefore, the District Registrar rightly did not act further in the matter. The period from 04.03.2015 till the date of receipt of copy of the order in these writ petitions will stand excluded for the purpose of computing limitation under Section 33-A of the Act. The right of the petitioners to obtain refund of payments already made by them would abide by the action that may be taken by the authorities. Since the petitioners have voluntarily paid 50% of the demanded amount, they will not entitled to any interest therefor. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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To:-

- 1.The Inspector of General of Registration,
Registration Department, Santhome High Road,
Chennai 28.
- 2.The Deputy Inspector of General of Registration,
Registration Department, Madurai Zone,
Madurai..
- 3.The District Registrar,
District Registrar Office,
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- 4.The Joint Sub-Registrar -I,
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