



W.P.(MD)No.11557 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :19.01.2023

CORAM

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.(MD)No.11557 of 2016

and

W.M.P.(MD).No.8847 of 2016

1.L.Devadoss Samuel

2.Vasanth

... Petitioners

Vs.

1.The Inspector General of Registration,
Office of the Registrar General of Registration,
Santhome,
Chennai-600 028.

2.The Sub-Registrar,
Woraiyur Sub-Registration Office,
Woraiyur, Trichy.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the impugned order dated 21.03.2016 in pending Document No.9 of 2016 and quash the same and consequently, direct the 2nd respondent to register the said document as it is



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and release the same.

For Petitioners :Mr.S.Vinod Sathya Lazar
For Respondents :Mr.S.Shanmugavel
Additional Government Pleader

ORDER

The writ petition has been filed challenging the order passed by the 2nd respondent herein, calling upon the petitioner to remit the deficit stamp duty and registration charges.

2. The learned counsel for the petitioners would submit that the property in question originally belong to the husband of the 2nd petitioner and by way of a partition, the properties were divided among the children of the 2nd petitioner. Thereafter, by a registered sale deed dated 28.01.2015, the children of the 2nd petitioner had executed a sale deed in favour of the 1st petitioner. The 1st petitioner wanted to have a confirming deed of ratification. Even though the 2nd petitioner under the partition was not allotted, the property deed of ratification was executed by the 2nd petitioner in favour of the petitioner confirming the sale deed in his favour. The same



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was presented for registration before the 2nd respondent. The 2nd respondent, by the impugned order, had treated the document as a fresh deed of transfer/sale and had called upon the petitioner to remit a sum of Rs. 3,07,380/- as deficit stamp duty and Rs.61,480/- as deficit registration charges. Being aggrieved against the same, this writ petition has been filed.

3. The learned counsel for the petitioner would contend that the property in question had already been transferred and had suffered stamp duty and also registration charges. What is now sought to be registered is only a ratification deed, confirming the sale by the children of the petitioner. There is no transfer of title, in respect of the property and hence, it cannot be treated as a sale deed. He would also submit that such a demand would amount to unjust enrichment by the 2nd respondent.

4. Countering his argument, the learned Additional Government Pleader would submit that document presented for registration cannot be treated as a ratification deed and it should be treated as a conveyance deed, as per Section 23 of the Indian Stamp Act. He would further submit that as



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against the order impugned, there is a provision of filing an appeal under Section 56(1) of the Indian Stamp Act, before the 1st respondent herein. Since there is alternate remedy available to the petitioner, this writ petition is not maintainable. He would vehemently contend that the document presented would not fall under Section 4(1) of the Indian Stamp Act. It is only a transfer of right and title of the petitioner over the said property. Hence, he would submit that there is no error in the order impugned in this writ petition and sought to dismiss the writ petition.

5. I have considered the rival submissions made by the learned counsel appearing on either side.

6. The property under the ratification deed, which is the subject matter of this writ petition, was already sold by the children of the 2nd petitioner, by registered sale deed dated 28.01.2015. The said document had already suffered the necessary stamp duty and registration charges. The 2nd petitioner, who is the mother, had now executed a deed of confirmation of the sale deed executed to her children. I have perused the said document. In



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the said document, the 2nd respondent had categorically stated that without any consideration, she is executing the said deed of ratification. What the said document purports to carry out is to confirm the rights that have already been vested with the 1st petitioner. Hence, there is no transfer of any title or interest under the said document. This should only infer that the document cannot be treated as a document under Section 23 and therefore, it squarely falls under Section 4(1) of the Indian Stamp Act. In view of the same, the order impugned in this writ petition is bad in law and therefore, it is liable to be set aside.

7. Accordingly, this writ petition is allowed and the impugned order passed by the 2nd respondent is set aside. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Speaking Order/Non Speaking Order
sbm



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