



W.P(MD).No. 23586 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2023

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P(MD)No.23586 of 2016

and

W.M.P(MD) Nos.16952 and 16953 of 2016

S.Manthira Moorthy

..... Petitioner

- Vs-

1. The Special Deputy Collector (Stamps)
Office of the Deputy Collector (Stamps)
The Collectorate Compound,
Tirunelveli,
Tirunelveli District.

2. The Sub -Registrar,
Eraniel Sub-Registrar Office,
Neyyoor Post,
Kanyakumari District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent proceedings in Ref.No.மு.ச.எக்ஸ் 4/1685/2012, dated 23.12.2015 and quash the same as devoid of merits and consequently, direct the second respondent to return the document to the



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petitioner based on the petitioner's representation, dated 29.12.2015 within the period stipulated by this Court.

For Petitioner : Mr.Ananth C.Rajesh

For Respondents : Mr.M.Ramesh
Government Advocate

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorarified Mandamus to call for the records of the first respondent proceedings in Ref.No.மு.ச.எக்ஸ் 4/1685/2012, dated 23.12.2015 and quash the same as devoid of merits and consequently, direct the second respondent to return the document to the petitioner based on the petitioner's representation, dated 29.12.2015 within the period stipulated by this Court.

2. Heard Mr.Ananth C.Rajesh, learned counsel appearing for the petitioner and Mr.M.Ramesh, learned Government Advocate appearing for the respondents.



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3. The learned counsel for the petitioner would submit that the petitioner had purchased the property in S.No.323/9 to an extent of 2.5 cents for a valid sale consideration on 26.08.2014 and that he had also submitted Form 1A as per the guideline value. The petitioner also paid stamp duty and registration charges and the document was assigned in Document No. 2984/2014. In spite of repeated request, the document was not released in the month of August 2015. The petitioner was informed that the document has been preferred under Section 47-A of the Indian Stamp Act. Hence, on instructions of the petitioner, legal notice was sent to the second respondent calling upon him to return the document. On receipt of the legal notice, the first respondent herein had sent a Form-II notice, on 29.10.2015 fixing the date of enquiry on 13.11.2015. As the petitioner was sick, he was not able to attend the enquiry and that he had submitted a detailed explanation on 29.12.2015. He would submit that the order impugned in the writ petition was not served upon the petitioner. He would also submit that he was not served with the Form-1 notice as contemplated. He would also submit that the time line for passing orders has also been violated. When that be so, the authorities have no right to retain the document and ought to have returned the document. Hence, he would seek to interfere with the order impugned in



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the writ petition and consequently, direct the respondents to return the document of the petitioner.

4. Countering the arguments, the learned Government Advocate appearing on behalf of the respondents would submit that the writ petition as against the said order is not maintainable and only an appeal to the appellate authority, namely, the Inspector General of Registration should be made. Hence, he would submit that in view of the alternative remedy available to the petitioner, the writ petition should not be entertained. He would further submit that Form - I notice was issued to the petitioner on 08.12.2014. He had not made any objections. Again, Form-II notice was issued on 29.10.2015, for which also, he had not submitted any explanation and thereafter, the first respondent had passed orders on 23.12.2015 and the same has been sent to the petitioner. Only then, the petitioner has sent a reply on 29.12.2015 which has been received by the first respondent on 30.12.2015. He would further submit that in spite of the notice under Form-II issued to the petitioner calling upon him to attend the enquiry on 13.11.2015, the petitioner had not sent any objections nor had appeared on 13.11.2015. Hence, he cannot be heard to say that he was unaware of the



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proceedings impugned in the writ petition. He would further submit that the present Writ Petition has been filed belatedly after period of one year, for which, there is no valid explanation given by the petitioner.

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

6. At the outset, in this case, the petitioner had registered a document on 26.08.2014. Since there was deficit stamp duty, a notice in Form-1 has been issued to the petitioner on 08.12.2014. The petitioner claims that he was not in receipt of the aforesaid notice and that Form-II notice has been served upon the petitioner on 29.10.2015. Though notice of service has been acknowledged by the petitioner to the said notice, he had not either submitted an explanation nor as he had appeared before the first respondent on the date fixed for hearing namely, 13.11.2015.

7. The explanation of the petitioner is that he was sick and the averments in the affidavit to that effect are very bald. He has also not produced any medical certificates to substantiate the same. Further, the



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order impugned in the writ petition had been passed on 23.12.2015. The petitioner had submitted an explanation pursuant to the Form-II notice, on 29.12.2015.

8. This, in my view, is to drag on the proceedings initiated against the petitioner under Section 47-A of the Stamp Act. The petitioner seems to be have been vigilant in following the proceedings, but not participating in such proceedings. Immediately on coming to know that an order has been passed against him, he had sent a representation. Even thereafter, he had not followed with any further representation to the first respondent as to the stage of the enquiry. He had approached this Court after more than one year seeking to challenge the impugned order. Even though he had denied knowledge of the impugned order, the same has been produced in the typed set of papers. There is no explanation as to how and when he had knowledge of the order impugned in the writ petition.

9. As rightly contended by the learned Government Advocate, the petitioner had not availed alternative remedy available him. In the light of the aforesaid findings, I do not find any merit in the writ petition.



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Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

31.01.2023

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

1. The Special Deputy Collector (Stamps)
Office of the Deputy Collector (Stamps)
The Collectorate Compound,
Tirunelveli,
Tirunelveli District.
2. The Sub -Registrar,
Eraniel Sub-Registrar Office,
Neyyoor Post,
Kanyakumari District.



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K.KUMARESH BABU, J.

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Order made in
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