IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2024

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.No.2615 of 2024

A.Kumaraguru ... Petitioner

Vs.

1. The Add. Inspector General of Registration (Stamps),
   No.100, Santhome High Road,
   Mullima Nagar,
   Mandavelipakkam,
   Raja Annamalai Puram,
   Chennai – 600 028.

2. The District Revenue Officer (Stamps),
   Singaravelan Maligai,
   No.32, Rajaji Salai,
   Chennai – 600 001.

3. The Sub-Registrar,
   Bangalore Highways Road,
   Sunguvarchatram,
   Kanchipuram – 602 106. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the second respondent in

(Na.Ka.En.4/18/A6) dated 09/10/2018 and to quash the same and to direct the third respondent to remove the consequential charges reflecting in EC on ECA/online/109621678/2024.

For Petitioner : Mr.V.Chandrasekaran

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the second respondent in (Na.Ka.En.4/18/A6) dated 09/10/2018 and to quash the same and to direct the third respondent to remove the consequential charges reflecting in EC on ECA/online/109621678/2024.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the official respondents and perused the materials available on record.

3. Learned counsel for the petitioner submitted that the petitioner purchased the subject property inCourt auction and the Court has fixed the sale price. The petitioner has presented the document for registration and the same was registered and released. Later, the respondents have issued the impugned notice. On seeing the EC, it was found that there was an entry for recovery of additional stamp duty, which is against the settled proposition of law. This Court and Hon'ble Supreme Court, again and again, held that when an auction sale is conducted in pursuance of the direction of the court and when the document is executed based on the court auction, the amount offered and accepted by the court would represent the real market value of the property. Once the document is registered for the said value, the Registering Authority has no locus standi /power to question the value/consideration fixed for the property.

4. Learned Special Government Pleader appearing for the respondents submitted that after the registration of document, subsequently, during audit conducted by the Deputy Registrar (Audit), it

was found that the disputed document has not been registered for the market value and that there is deficit in registration charges and stamp duty. Hence, they made entry in the EC. In order to comply with the Audit Report, the respondents have sent the demand notice. In support of his contentions, he placed reliance upon the decision of the Hon'ble Supreme Court reported in *2008(1)CTC60SC [State of Rajasthan and others Vs. Khandaka Jain Jewellers].*

5. Learned counsel for the petitioner submitted that the reliance placed on the decision of the Hon'ble Supreme Court by the learned Special Government Pleader is not applicable to the case on hand as the issues involved in the present case are entirely different.

6. On a perusal of the records it is found that the petitioner was called upon to appear before the respondents with relevant particulars and to answer the query within the stipulated time. The petitioner, instead of appearing before the respondents and offer his explanation, has challenged the impugned notice issued by the respondents. Since no final order has been passed, it is for the petitioner to appear before the

respondents and offer his explanation.

7. Having regard to the submission made by the learned counsel on either side and taking into consideration the limited prayer sought by the petitioner, this Court directs the petitioner to appear before the second respondent and offer his explanation within a period of 15 days from the date of receipt of a copy of this order. On receipt of such explanation, the respondents are directed to give an opportunity of hearing to the petitioner and consider his explanation and pass order on merits and in accordance with law. The abovesaid exercise shall be completed within a period of six weeks thereafter.

8. With the abovesaid direction, the Writ Petition is disposed of. There shall be no order as to costs.

07.03.2024

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Index:Yes/No
Speaking Order: Yes/No

Neutral Citation: Yes/No

To

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   No.100, Santhome High Road,
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P.VELMURUGAN, J.

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