IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.5438 of 2019
and
W.M.P.Nos.6180, 6182 and 6183 of 2019

1.B.Damodaran
2.D.Jayaraman ... Petitioners

Vs.

1.The Chief Revenue Controlling Officer cum
Inspector General of Registration,
100, Santhome High Road,
Chennai – 600 028.

2.The District Revenue Officer (Stamps),
Singaravelar Maaligai,
Collectorate,
Rajaji Road,
Chennai – 600 001.

3.The Joint Sub Registrar II,
Chengalpet,
Kanchipuram District. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 30.03.2012 made in Na.Ka.Si.Pa.No.168/2009 passed by the 2nd respondent, which was confirmed in Pa.Mu.No.18351/N1/2013 dated 20.02.2014 passed by the 1st respondent, quash the same in so far as the interest at the rate of 1% is concerned, and consequently, direct the respondents to release the original sale deed dated 26.12.2008 (Doc.No.10458/2008) as per Section 61(2) of the Registration Act, 1908, by considering the representation dated 20.06.2018.

For Petitioners : Mr.N.Manokaran

For Respondents : Mr.P.Anandakumar
Government Advocate

ORDER

This Writ Petition has been filed seeking for issuance of a certiorarified mandamus, to call for the records relating to the impugned order dated 30.03.2012 made in Na.Ka.Si.Pa.No.168/2009 passed by the 2nd respondent, which was confirmed in Pa.Mu.No.18351/N1/2013 dated 20.02.2014 passed by the 1st respondent, quash the same in so far as the interest at the rate of 1% is concerned, and consequently, direct the respondents to release the original sale deed dated 26.12.2008 (Doc.No.10458/2008) as per Section 61(2) of the Registration Act, 1908, by considering the representation dated 20.06.2018.

2. The case of the petitioners is that the petitioners have purchased to an extent of 73 cents in T.S.No.1180/1 (S.No.259/1) in B Block, 4th Ward, Chengalpet Municipality, Kanchipuram District under a Sale Deed dated 26.12.2008, executed by one Mr.K.Aruldass and others. The sale deed was duly valued as per the prevailing guideline value and presented for registration before the third respondent on payment of the registration expenses, which was duly registered as Doc.No.10458/2008. The third respondent being the Registering Officer satisfied with stamp duty paid and registered the sale deed without any objection. There was no dispute or objection raised at the time of registration, the third respondent is bound to release the original sale deed as per Section 61(2) of the Registration Act, 1908. However, without releasing the original sale deed, after three months, the third respondent has referred the document under Section 47A of the Indian Stamp Act to the second respondent. Thereafter, the second respondent has issued Form I, dated 19.03.2009 under Rule 4 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, by demanding the deficit stamp duty of Rs.7,23,862/- less the stamp duty of Rs.4,010/- paid at the time of registration. The petitioners have submitted their objections in Form I, requesting the second respondent to release the original sale deed.

3. As per the objections, the second respondent has issued Form II, dated 15.03.2012 along with the Provisional Assessment Order in Na.Ka.Si.Pa.No.168/09 in a printed format and demanded the deficit stamp duty of Rs.6,09,286/- by fixing the market value as Rs.255/- per sq.ft. Thereafter, the second respondent has passed a final order dated 30.03.2012 by reiterating the demand made under the Provisional Assessment Order. Therefore, the petitioners have filed an appeal before the first respondent in Pa.Mu.No.18351/N1/2013. After receiving the report from the District Registrar, who has proceeded to fix the market value as Rs.200/- per sq.ft, instead of Rs.255/- per sq.ft., by an order dated 20.02.2014 made in Pa.Mu.No.18351/N12013. However, the copy of the report dated 11.10.2013 submitted by the District Registrar, Chengalpet was not furnished.

4. After the order dated 20.02.2014 passed by the first respondent, the second respondent has issued a memo dated 26.03.2014 by demanding the deficit stamp duty of Rs.4,69,238/- the petitioner failed to pay the amount within the stipulated time, the second respondent has indicated that the petitioners should pay the interest at the rate of 1% for the delayed payment.

On foregoing reasons, aggrieved against the demand of interest at the rate of 1% for the disputed deficit stamp duty fixed under the order dated 30.03.2012 made in Na.Ka.Si.Pa.No.168/2009 passed by the second respondent which was confirmed in Pa.Mu.No.18351/N1/2013 dated 20.02.2014 passed by the first respondent. Therefore, the petitioners have filed this writ petition.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

6. The learned counsel appearing for the petitioner submitted that pursuant to the order passed by the second respondent dated 30.03.2012 made in Na.Ka.Si.Pa.No.168/2009 which was confirmed by the first respondent vide order dated 20.02.2014 in Pa.Mu.No.18351/N1/2013 directing the petitioners to pay 1% interest, the petitioners are ready to pay the interest at the rate of 1% interest of a sum of Rs.2,23,264/- within a period of eight weeks from the date of receipt of a copy of this order.

7. The third respondent on the receipt of the payment for a sum of Rs.2,23,264/- (1% interest) is directed to release the original sale deed dated

26.12.2008 vide Doc.No.10458 of 2008 as per Section 61(2) of the Registration Act, 1908 within a period of four weeks thereafter.

8. In the result, this writ petition is disposed of with the above observations and directions. No costs. Consequently, connected writ miscellaneous petitions are closed.

12.07.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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