IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **10.04.2024**

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.9716 of 2024 & WMP.No.10741 of 2024

S.S.P.Madhavan .. Petitioner

Versus

1. The Inspector General of Registration
cum Chief Controller Revenue Authority,
No.100, Santhome High Road, Chennai – 600 004.

2. The District Registrar [Audit],
O/o.District Registrar of Department of Registration,
Salem Town & City.

2. The Sub Registrar,
Sankari Taluk, Salem District. .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to impugned Order dated 26.02.2024 passed by the third respondent in Letter No.3/2024 and to quash the same.

For Petitioner : Mr.K.M.Vivekanandan

For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader

ORDER

With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed challenging the impugned Order dated 26.02.2024 passed by the third respondent in Letter No.3/2024 claiming deficit stamp duty for registration of the release deed presented by the petitioner.

3. Heard learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

4. The case of the petitioner is that he was given right of release of shares by his father and his sisters by way of registered release deed dated 23.11.2022 relinquishing their 4/5th share in the subject property. Thereafter, a sum of Rs.54,52,290/- towards stamp charges and a sum of Rs.31,25,880/- towards registration charges were sought to be recovered from the petitioner by the impugned Order dated 26.02.2024 on the ground that the audit found that there is deficit stamp duty. Hence, the present Writ Petition.

5. Though the Writ Petition has been filed to call for the records, when the Order impugned is totally against the statutory law, this Court is of the view that such an Order can be quashed even without counter. The learned Additional Government Pleader would fairly submit that as far as registration of release deed is concerned, among the family members, the maximum stamp duty is Rs.40,000/- plus Rs.10,000/-. Therefore, based on the audit report, claiming huge amount of Rs.54,52,290/- towards stamp duty and Rs.31,25,880/- towards registration charges is without sanction of law. Even for claiming any deficit stamp duty at the time of registration, the Sub Registrar ought to have referred the matter for determining the stamp duty to the Collector, which has not been done. As there is fixed stamp duty for registration of release deed among the family members, claiming huge amount on the basis of audit report cannot be sustained in the eye of law.

6. Accordingly, this writ petition is allowed and the impugned Order dated 26.02.2024 pass by the third respondent is quashed. No costs. Consequently, connected miscellaneous petition is closed.

10.04.2024

vrc

Index :Yes/No
Internet :Yes/No
Neutral Citation : Yes/No

To,

1. The Inspector General of Registration
   cum Chief Controller Revenue Authority,
   No.100, Santhome High Road, Chennai – 600 004.

2. The District Registrar [Audit],
   O/o.District Registrar of Department of Registration,
   Salem Town & City.

2. The Sub Registrar,
   Sankari Taluk, Salem District.

N. SATHISH KUMAR, J.

vrc

W.P.No.9716 of 2024

10.04.2024