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W.P.No.10693 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.10693 of 2020
and
W.M.P.Nos.12984 & 12985 of 2020

P.Karuppanasamy

... Petitioner

Vs.

1.The Special Deputy Collector,
(Stamps) for Salem, Dharmapuri,
Namakkal and Krishnagiri Districts,
Salem.

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

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order made in SR.No.1556/2018/SC/2020, dated 13.02.2020 passed by the first respondent, quash the same and consequently, forbear the respondents from proceeding under Sec.47 A of the Indian Stamp



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Act, when the second respondent has not recorded that the market value of the property has not been truly set forth in the sale deed dated 10.05.2018 (Doc.No.1139/2018) on the file of the second respondent by considering the petitioner's representations dated 24.09.2019 and 16.11.2019.

For Petitioners : M/s.K.Megala
for N.Manokaran

For Respondent 1 & 2 : Mr.P.Anandakumar,
Government Advocate

ORDER

This writ petition has been filed to call for the records relating to the impugned order made in SR.No.1556/2018/SC/2020, dated 13.02.2020 passed by the first respondent, quash the same and consequently, forbear the respondents from proceeding under Sec.47 A of the Indian Stamp Act, when the second respondent has not recorded that the market value of the property has not been truly set forth in the sale deed dated 10.05.2018 (Doc.No.1139/2018) on the file of the second respondent by considering the petitioner's representations dated 24.09.2019 and 16.11.2019.

2. The case of the petitioner is that the petitioner along with two other person viz., N.Nagaraj and S.Sakthivel had purchased an extent of 95 cents in



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S.F.No.56/2A2 and 38 cents in S.F.No.56/3B, Padaiveedu Village, Komarapalayam Taluk, Namakkal District under a sale deed dated 10.05.2018 (Doc.No.1139/2018) from one N.Janagaraj and another for a valid sale consideration. The second respondent has duly registered the above sale deed after being satisfied with the stamp duty paid for the guideline value. The petitioner and the co-purchasers have paid the stamp duty as fixed by the second respondent besides the payment of registration fee. However, the second respondent has not released the original sale deed.

2.1. This being so, the petitioner has received SMS from respondents directing him to appear in person or through authorized agent to collect the original sale deed which was ready for release. Immediately, the petitioner has appeared before the second respondent, but the second respondent gave some lame excuses to release the document. At this juncture, document writer Anbazhagan has approached the petitioner with a demand of Rs.4,00,000/- being payable to the second respondent. Thus, the petitioner and other buyers again met the second respondent in person and she has directed them to approach the District Registrar, Salem, who informed that the subject matter document was not received from the second respondent.



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2.2. Therefore, the petitioner has filed a writ petition in W.P.No.1290 of 2020 before this Court to direct the respondents to release the original sale deed dated 10.05.2018 and this Court disposed the above writ petition. Subsequently, the first respondent passed the order vide SR.No.1556/2018/SC/2020 dated 13.02.2020 by fixing the value as Rs.235/- per sq.ft and directed the petitioner to deposit the deficit stamp duty of Rs.8,60,704/-. Challenging the said order dated 13.02.2020, the petitioner has come forward with the present writ petition.

3. Learned counsel for the petitioner submitted that the first respondent has issued an order vide SR.No.1556/2018/SC/2020 dated 13.02.2020 without conducting any enquiry or opportunity of hearing to the petitioner, which is in violation of principles of natural justice. Hence, he prayed this Court to set aside the aforesaid order dated 13.02.2020.

4. Learned Government Advocate appearing for the respondents submitted that notice was issued to the petitioner and objection was also sought for from the petitioner, however no objection was raised by the petitioner.



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5. Heard the learned counsel on either side and perused the materials available on record.

6. In regard to the submission made by the learned Government Advocate appearing for the respondent, this Court asked him to substantiate the same by producing any documentary proof and for which, he replies that he has not in possession of any such documents.

7. In view of the above, it is clear and evident that aforesaid order vide SR.No.1556/2018/SC/2020 dated 13.02.2020 has been passed by the first respondent without issuing any notice or providing any opportunity of personal hearing to the petitioner, which is liable to be set aside and the same is hereby set aside. Hence, this Court remits the matter back to the first respondent for a fresh consideration after giving due notice, affording an opportunity of personal hearing to the petitioner, to take into consideration all the relevant documents submitted by the petitioner in regard to the subject matter property and pass appropriate orders on merits, in accordance with

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law thereby following the above principles of natural justice, within a period of eight weeks from the date of receipt of a copy of this order.

8. This writ petition is disposed of with the aforesaid observation and direction. No costs. Consequently, connected miscellaneous petitions are closed.

18.07.2024

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

To:

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Salem.

2.The Sub Registrar,
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J.SATHYA NARAYANA PRASAD,J.

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