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W.P.No.18145 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2024

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.18145 of 2024
and W.M.P.No.19938 of 2024

M.Ganesan

... Petitioner

vs.

1. Inspector General of Registration (Documents)
Santhome High Road,
Mylapore, Chennai.

2. The District Revenue Officer (Stamps)
Singaravelar Maligai, 5th Floor,
No.32, Rajaji Salai,
Chennai-600001.

3. The Sub Registrar,
Tiruvallur.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Provisional Order vide proceeding No.Pa.No.74/16/A4 dated 07.01.2017 on the file of the second respondent and quash the same and consequently direct the respondents to return the sale deed dated 04.08.2016 registered as document No.8176/2016.

For Petitioner : Mr.V.Sithannan

For Respondents : Mr.T.Chezhiyan
Additional Government Pleader

ORDER



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The writ petition is filed challenging the order passed by the 2nd respondent dated 07.01.2017 under Section 47-A(1) of the Indian Stamp Act, 1899.

2. The writ petition was filed on the assumption the impugned order is a provisional order calling for explanation from the petitioner. However, a reading of the impugned order would suggest that the objection of the petitioner was already called for and after enquiry, the final order has been passed on 07.01.2017 fixing the market value of the property at Rs.420/- per sq.ft. By the impugned order, the petitioner was also directed to pay the deficit stamp duty of Rs.2,49,760/-.

3. Against the order passed by the 2nd respondent under Section 47-A(1) of the Indian Stamp Act, 1899, an appeal shall lie before the 1st respondent under Section 47-A(5) of the Indian Stamp Act, 1899. Therefore, the petitioner is not entitled to maintain this writ petition without availing the statutory remedy of appeal before the 1st respondent. Further, any person aggrieved by order passed by 1st respondent in appeal, can file further appeal before this Court under Section 47-A(10) of Stamp Act. Therefore, the alternative remedy available to aggrieved party cannot be treated as



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ineffective one.

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4. The learned counsel appearing for the petitioner would submit that the petitioner has filed an appeal before the 1st respondent on 22.08.2023 and the same was returned by 1st respondent on two grounds viz., (i) failure to enclose final order; (ii) failure to explain the delay by producing medical certificate. The learned counsel further submitted that in view of the return passed by the 1st respondent, the impugned order shall be treated as a provisional order.

5. This Court is unable to accept the submission made by the learned counsel appearing for the petitioner. If the appeal memorandum filed by the petitioner was returned for his failure to enclose final order, it is for him to enclose the final order and represent the appeal by curing the other defects.

6. It is clear that the impugned order is the final order passed by 2nd respondent under Section 47-A(1) of the Indian Stamp Act, 1899 and therefore, the petitioner is entitled to file an appeal before the 1st respondent under Section 47-A(5) of the Indian Stamp Act, 1899.



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7. The petitioner is at liberty to avail the alternative remedy of appeal before the 1st respondent. It is open to the petitioner to represent the appeal by enclosing the copy of the impugned order before the 1st respondent. If the appeal papers are represented with the copy of the impugned order, the 1st respondent, subject to law of limitation, shall consider the same and pass orders in accordance with law. While explaining the delay in filing the appeal, it is open to the petitioner to exclude the time taken by him in prosecuting this writ petition before this Court (namely period from 24.06.2024 to the date of receipt of copy of this order).

8. With this clarification, the Writ Petition stand dismissed. No costs. Consequently, the connected writ miscellaneous petition is closed.

08.08.2024

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
dm



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To

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S.SOUNTHAR, J.

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