IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.23212 of 2024

I.Dominic Raj

... Petitioner

vs.

1.The Inspector General of Registration,
100, Santhome High Road,
R.A.Puram,
Chennai – 600 028.

2.The Special Deputy Collector (Stamps),
District Collectorate's Office,
Singaravelar Maligai,
Rajaji Salai,
Chennai – 600 001.

3.The District Registrar,
South Chennai,
No.9, Jeenis Road,
Saidapet,
Chennai – 600 015.

4.The Sub Registrar,
Neelankarai,
Chennai – 600 041.

... Respondents

Prayer: Writ Petition filed under Article 227 of Constitution of India, to issue a Writ of Mandamus, directing the respondents herein to refund the excess amount of Rs.4,09,481/- paid by the petitioner under protest towards stamp duty and registration fees.

For Petitioner : Mr.K.V.Babu
For Respondents : Mr.B.Vijay
Additional Government Pleader

ORDER

The petitioner herein seeks a direction to the respondents to refund the excess stamp duty of Rs.4,09,481/- paid by the petitioner for the sale deed executed in his favour dated 01.06.2022.

2. The petitioner purchased the property bearing Plot No.58, Old No.58(1), Manikodi Srinivasan Nagar Main Road, Seevaram, Perungudi,Chennai 600 096 from one A.Ganasoundari, vide sale deed dated 01.06.2022 registered with 4th respondent. The extent of the land purchased is 2400 sq.ft along with building measuring 1100 sq.ft. The sale consideration for the said property was arrived at Rs.1,00,00,000/- based on the fact, the property was assessed to building tax by the Corporation of Chennai as a building facing Manikodi Srinivasan Nagar Main Road,

Seevaram. In Annexure IA attached to the sale deed the value of the said land was mentioned as Rs.40,20,000/- and the value of the building was mentioned as Rs.59,80,000/-. The value of the land was arrived at only on the ground that the property is facing Manikodi Srinivasan Nagar Main Road, Seevaram. The 4th respondent entertained a doubt with regard to the valuation adopted by the petitioner mainly on the ground that the property is facing two streets, one on the northern side namely industrial road and the other on the southern side namely Manikodi Srinivasan Nagar Main Road, Seevaram. The 4th respondent referred the document to second respondent under Section 47(A) of Stamp Act. Thereafter, the second respondent issued "Form-I" notice under Rule 4 of Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules 1968, stating that the land value was Rs.92,52,000/- as against Rs.40,20,000/- mentioned in the annexure IA to the sale deed. The petitioner submitted an objection on the ground that the property was assessed to tax by Corporation of Chennai, as if, it is located in Manikodi Srinivasan Nagar Main Road, Seevaram and therefore, the guideline value applicable to that road was taken into consideration by the petitioner while arriving at land value.

3. The petitioner also brought to the notice of the second respondent that the building value was arrived at by the petitioner as Rs.59,80,000/- which is much more than the value fixed by PWD for the superstructure. The petitioner requested the second respondent to take into consideration the excess stamp duty paid by the petitioner regarding building by valuing the building on higher side and adjust the excess stamp duty paid on the value of the building towards the Deficit Stamp Duty payable on the value of the land arrived at by the authorities. However, the second respondent passed an order directing the petitioner to pay Deficit Stamp Duty of Rs.3,66,240/- based on the higher valuation arrived at for the land treating the property as located in industrial road. The request of the petitioner for giving set off to the excess stamp duty paid on the value of the building has not been considered.

4. It is also stated by the petitioner that he paid Deficit Stamp Duty as demanded by the second respondent under protest and got release of the document due to urgency. Since the second respondent has not

considered the request of the petitioner to get refund of excess stamp duty paid on the value of the building, the petitioner has come by way of this writ petition seeking necessary direction to refund the excess stamp duty collected on the value of the building.

5. The learned counsel appearing for the petitioner by relying on the PWD valuation for the building situated in the subject property submitted that the petitioner on his own valuation in the Annexure IA to the sale deed valued the building on higher side and paid excess stamp duty and therefore, he is entitled to refund of the same.

6. The learned Additional Government Pleader appearing for the respondents would submit that the petitioner voluntarily declared valuation of the building at Rs.59,80,000/- in Annexure IA to the sale deed and hence, it is not open to him to turn around and say valuation of the building declared by him was not correct.

7. The learned Additional Government Pleader by taking this Court to Rule 3 of Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 submitted that the statement was made by the petitioner in Annexure IA to the sale deed on his own assessment of the market value of the building and the subject property and he is bound by the valuation furnished by him. He also submitted that the petitioner having accepted the order passed by the second respondent and paid the Deficit Stamp Duty as demanded is not entitled to seek refund of the stamp duty already paid.

8. A perusal of Annexure IA attached to the sale deed would clearly indicate that the petitioner valued the building in the subject property at Rs.59,80,000/- and the value of the land at Rs.40,20,000/-. As far as value of the land is concerned, in the proceedings under Section 47A of Stamp Act, second respondent came to the conclusion that correct value was Rs.92,52,000/- and directed the petitioner to pay the Deficit Stamp Duty.

9. In Form I notice issued by the second respondent, the provisional valuation was made by the second respondent only for the land and as far as building is concerned, the second respondent has not made any provisional valuation. After considering the objections raised by the petitioner, the second respondent passed final orders directing the petitioner to pay Deficit Stamp Duty of Rs.3,66,240/- by taking into consideration under valuation in respect of the land. The second respondent has not considered the higher valuation adopted by the petitioner in respect of the building. If the petitioner is aggrieved by order passed in Section 47-A Proceedings, he could have challenged the same by filing appeal. However, as per the final order passed by the second respondent in proceedings under Section 47-A of Stamp Act, the petitioner paid the Deficit Stamp Duty and got release of the document. Though the petitioner in his affidavit had stated that the Deficit Stamp Duty was paid under protest, he has not produced any material to show that Deficit Stamp Duty was paid on the protest. The acknowledgement issued to the petitioner for payment of Deficit Stamp Duty does not say that the said amount was paid under protest.

10. Having paid the Deficit Stamp Duty as demanded by the second respondent without any protest, it is not open to the petitioner to seek refund of the alleged excess stamp duty. The petitioner also failed to challenge the order passed by the second respondent in the manner known to law. Therefore, there is no material on record to suggest that the petitioner paid the Deficit Stamp Duty fixed by the second respondent under protest or he challenged the order passed by the second respondent before the Competent Authority by filing an appeal.

11. In these circumstances, the writ petition filed by the petitioner seeking issue of Writ of Mandamus, directing the respondents to pay alleged excess stamp duty collected from the petitioner is not maintainable. After all, the valuation mentioned in the Annexure IA to the sale deed is petitioner's own valuation and it is not open to him turn around and say the valuation adopted by him was not correct.

12. In any event, the petitioner failed to challenge the order passed by the second respondent in the proceedings initiated under Section

47-A of Stamp Act in the manner known to law. Therefore, this Court is not inclined to accept the prayer made by the petitioner and accordingly, the writ petition stands dismissed. No costs.

06.09.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
ub
To
1.The Inspector General of Registration,
100, Santhome High Road,
R.A.Puram,
Chennai – 600 028.

2.The Special Deputy Collector (Stamps),
District Collectorate's Office,
Singaravelar Maligai,
Rajaji Salai,
Chennai – 600 001.

3.The District Registrar,
South Chennai,
No.9, Jeenis Road,
Saidapet,
Chennai – 600 015.

4.The Sub Registrar,
Neelankarai,
Chennai – 600 041.

S.SOUNTHAR, J.

ub

W.P.No.23212 of 2024

06.09.2024