BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.07.2024**

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.215 of 2011

Nalhini ... Appellant

Vs.

1.The Inspector General of Registration,
Chennai-28.

2.The Special Deputy Collector (Stamps),
Madurai.

3.The Sub Registrar,
Ayyampalayam,
Dindigul District. ...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 47A(10) Indian Stamps Act, against the proceedings letter No.585/E1/08, dated 30,11,2010, of Inspector General of Registration cum Chief Revenue Control Officer, Chennai-28.

For Appellant : Mr.B.Prasanna Vinoth
For Respondents : Mr.P.T.Thiraviyam
Government Advocate

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JUDGMENT

The present Civil Miscellaneous Appeal is filed against the order passed by the 1st respondent, the Inspector General of Registration, Chennai.

2. The appellant herein had purchased land and the sale deed was registered as Document No.328 / 2005 on 29.03.2005. The document was referred under section 47A for was deficiency in stamp duty and as per the order dated 31.05.2005 of the 2nd respondent, the Special Deputy Collector (Stamps), Madurai, the appellant had paid the increased stamp duty and on such payment the document was released.

3. Thereafter, the appellant had received a show cause notice, dated 08.06.2010 for suo motu revision, raising the same issue of deficit stamp duty. The appellant had contested the said *suo motu* revision notice on the question of limitation. But the said contention was rejected and the impugned order was passed. Aggrieved over the same, the present Civil Miscellaneous Appeal is filed.

4. The only issue raised by the appellant is limitation. The 3rd respondent has filed counter affidavit stating that based on the audit objection the suo motu revision proceedings was initiated on 01.02.2008 under section 47(b) calling for report from the District Registrar. The District Registrar had replied vide letter dated 02.09.2008 and the Deputy Inspector General had replied vide letter dated Nil.10.2008. After due consideration of the documents and the said reply, the 1st respondent had issued show cause notice dated 08.06.2010. The limitation starts from the date of initiation of suo motu proceedings and in the present case it is on 01.02.2008. Hence the suo motu revision is within the period of limitation.

5. The 3rd respondent relied on the chambers dictionary wherein the proceedings had been defined as transaction, course of conduct, progess. Further, as per the P.Ramanatha Ayyar, Law Lexicon the phrase 'general acceptance,' 'proceedings' means “it is an act which is done by the authority, a prescribed mode of action carrying into the effect a legal right, performance of an act”. Based on this definition, the respondents submitted that the proceedings were initiated from the date when the audit objection was submitted by the Accountant General. Based on the audit objection the 1st respondent had initiated the proceeding by calling for reports vide letter dated 01.02.2008, hence the limitation starts from

the said date.

6. In the present case, the audit objection was submitted on 18.01.2007, the 1st respondent had called for reports / remarks on 01.02.2008, thereafter the 1st respondent had issue show cause notice only on 08.06.2010. When the document is registered on 29.03.2005, the five years period is completed in 28.03.2010 but the show cause notice was issued only on 08.06.2010. Admittedly the show cause notice was issued three months after completion of five years period.

7. Any proceedings which would affect the civil rights of an individual, then the proceeding would be initiated by issuing show cause notice. Such notice ought to be issued within five years from the date of registration of the document. On receipt of such show cause notice the limitation would start. If the document is referred to Special Collector (Stamps), then from the date of the order passed by the said Authority. The section 47-A(7) states that

> *"the Chief Controlling Revenue Authority shall not initiate proceedings against any order passed under sub section (2) or sub section (3) if,-*
>
> *(a) The time for appeal against that order has not expired*
>
> *or*
>
> *(b) More than five years have expired after the passing of*

such order"

The provision states proceeding cannot be initiated after five years from the passing of the order means, if the document is already referred under section 47-A, then from the date of such order, the period of limitation would start. If the document is registered and not referred to 47-A, then from the date of the registration. Any audit objection, any internal communication to call for records / remarks ought not to be taken for calculating the period of limitation. Therefore, this Court is of the considered opinion the respondents are incorrect in stating that the limitation starts from the date of letter of the revision authority calling for reports / remarks from the registering authority. The limitation starts from the date of registration, if there is no proceeding initiated under section 47-A and in the present case the date of registration is 29.03.2005. If any proceeding was initiated, then from the date of such order the five years period would start. In the present case, admittedly, it is beyond five years, since the section 47-A order was passed on 31.05.2005, but the show cause notice was issued on 08.06.2010. Therefore, this Court is interfering in the impugned order and the impugned order is set aside.

8. Hence, the Civil Miscellaneous Appeal is allowed. The suo motu revision is quashed. No costs.

04.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

1.The Special Deputy Collector (Stamps),
Madurai.

2.The Sub Registrar,
Ayyampalayam,
Dindigul District.

3.Inspector General of Registration cum
Chief Revenue Control Officer,
Chennai-28.

4.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

S.SRIMATHY, J.

Tmg

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