BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD) No.1312 2023

Innasi ...Petitioner

-vs-

1.The District Registrar,
Karaikudi, Sivagangai District.

2.The Joint Sub Registrar No.1,
Office of the Joint Sub-Registrar No.I,
Karaikudi, Sivagangai District.

3.The District Collector,
Sivagangai District,
Sivagangai.

4.The Revenue Divisional Officer,
Devakottai, Sivagangai District.

5.Thirupathi (died)
6.Ananthi
7.Prasath
8.Harikrishnan ...Respondents

[R6 to R8 impleaded vide order dated 03.09.2024]

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus, directing the respondents 1 and 2 to accept the stamp duty penalty in respect of unregistered sale deed document dated 23.03.2005 executed by the 5th respondent in favour of the petitioner's wife (late) Rosali on the basis of the petition dated 13.10.2022 in the light of the order passed in I.A.No. 136/2020 in O.S.No.154/2019 dated 15.12.2020 on the file of the Learned Principal District Munsif cum Judicial Magistrate, Karaikudi within a stipulated time that may be fixed by this Court.

For Petitioner	: Mr.P.Saravanakumar
For R1 to R4	: Mr.P.Subbaraj Special Government Pleader

ORDER

This writ petition has been filed to direct the respondents 1 and 2 to accept the stamp duty penalty in respect of an unregistered sale deed document dated 23.03.2005 in the light of the order passed in I.A.No. 136/2020 in O.S.No.154/2019 dated 15.12.2020 on the file of the learned Principal District Munsif cum Judicial Magistrate, Karaikudi within a stipulated time that may be fixed by this Court.

2.It is the case of the petitioner that he has purchased the property in the name of his wife on the basis of an unregistered sale deed dated 23.03.2005 executed by the fifth respondent and mutated the revenue records in the name of his wife. While so, a suit in O.S.No.154 of 2019 came to be filed, since the some third party had attempted to create encumbrance over the subject property after the death of the petitioner's wife. The petitioner filed an application in I.A.No136 of 2020 to permit the petitioner to pay the stamp duty penalty in respect of the unregistered sale deed in favour of the petitioner's wife. The same was also allowed by the trial Court. Based on the above said order, the petitioner filed a petition before the respondents 1 to 4 seeking to determine and collect the stamp duty penalty. Since the same was not considered, the petitioner has filed this writ petition.

3.Heard the learned counsel appearing on either side and perused the materials placed on record.

4.Perusal of the material records placed before this Court shows that the petitioner had obtained an order to determine and collect the stamp duty. It is to be noted that without payment of stamp duty, any document would be used only for the purpose of collateral transaction and not beyond that, since there is a clear bar for use of such document under Section 54 of the Transfer of Property Act. Therefore, as already necessary orders have been passed by the competent civil Court to determine and collect the stamp duty, the authorities are directed to collect the same within a period of three months from the date of receipt of a copy of this order.

5.With the above observations, this writ petition is allowed. No costs.

03.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:
1.The District Registrar,
Karaikudi, Sivagangai District.

2.The Joint Sub Registrar No.1,
Office of the Joint Sub-Registrar No.I,
Karaikudi, Sivagangai District.

3.The District Collector,
Sivagangai District, Sivagangai.

4.The Revenue Divisional Officer,

Devakottai, Sivagangai District.

N.SATHISH KUMAR, J.

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W.P.(MD) No.1312 of 2023

03.09.2024

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