BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5726 of 2024
and
W.M.P(MD)No.5410 of 2024

Muniyandi ... Petitioner

Vs.

1.The District Registrar (Admin),
Collectorate Campus,
Virudhunagar District.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Virudhunagar District. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in Na.Ka.No. 8377/Aa1/2023 dated 04.12.2023 and quash the same as ultravires and unconstitutional and consequently direct the refund of the Stamp duty amount of Rs. 1,70,000 /- (Rupees One Lakh and Seventy Thousand Only).

For Petitioner : Mr.M.Ashok Kumar

For Respondents : Mr.C.Satheesh
Government Advocate

ORDER

Heard both sides.

2.The writ petitioner wanted to purchase the petition mentioned property from one Selvakumar. He purchased stamp papers valued at Rs.1,70,000/- from a registered stamp vendor. Sale deed was also prepared and the said Selvakumar also signed the document. But the said Selvakumar turned turtle and backed out. The petitioner filed specific performance suit in O.S.No.13 of 2015 on the file of Additional District Court, Srivilliputhur. The suit was dismissed on 14.02.2023.

3.The document was ordered to be impounded. The petitioner now wanted the refund of the amount after making appropriate deductions. The District Registrar took the stand that since six months had elapsed, refund is not possible. Challenging the said stand of the first respondent, the present writ petition came to be filed.

4.The learned Government Advocate reiterated the stand set out in the impugned order. He drew my attention to the relevant provisions of the Indian Stamp Act, 1899.

5. I carefully considered the rival contentions. The issue raised in the writ petition is no longer *res integra*. The Hon'ble Supreme Court of India in Civil Appeal No.5970 of 2021 dated 24.09.2021 ***(Mr.Rajeev Nohwar vs Chief Controlling Revenue Authority & Others)*** had settled the issue. The Hon'ble Supreme Court of India had held that where a litigant has no control over what happened, rejection of request for refund would violate equity, justice and fairness. The facts on hand are absolutely similar. In this case also the petitioner filed civil suit and the suit was dragged on for almost eight years. The petitioner cannot be blamed for the resultant delay. Respectfully applying the ratio relied on in the above decision, the impugned order is set aside. It is declared that the petitioner would be entitled to refund of the stamp duty. Refund shall be made within a period of eight weeks from the date of receipt of a copy of this order.

6.This writ petition is allowed on these terms. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

18.03.2024

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

To

1.The District Registrar (Admin),
Collectorate Campus,
Virudhunagar District.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Virudhunagar District.

G.R.SWAMINATHAN, J.

MGA

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