



W.P(MD)No.12753 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12753 of 2024

I.Pandi Thevar

... Petitioner

Vs.

1.The District Registrar (Administration),
Sivagangai District,
Sivagangai.

2.The Sub-Registrar,
Sivagangai District,
Sivagangai.

3.Rajakumari

4.Aruvukavalli

5.Aandisamy

6.Karruppasamy

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to call for the records pertaining to the order passed by the 1st respondent in No. 5250/A1/2023 dated 07.02.2024 and quash the same as illegal and consequently direct the 1st respondent to fix the penalty stamp duty as per the guideline value after the date of 22.04.1968 in respect of the unregistered partition deed dated 20.05.1965.



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For Petitioner : Mr.G.Thiruvartselvan

For Respondents : Mr.B.Saravanan

Additional Government Pleader for R1 & R2

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ORDER

Heard both sides.

2. The petitioner is figuring as second plaintiff in O.S.No.105 of 2019 on the file of the District Munsif Court, Thiruppuvanam. The suit is for declaration, recovery of possession and permanent injunction. The trial has since commenced in the suit. The plaintiffs wanted to mark the partition deed dated 28.08.1965. Since it was not neither registered or stamped, the learned trial munsif impounded the same and referred it to the first respondent for levy of stamp duty and penalty. The first respondent declined to undertake the exercise on the ground that while the document is of the year 1965, the guideline value for the property came to be fixed only in the year 1968. To this effect, the communication dated 07.02.2024 was issued to the trial munsif. Challenging the said communication, the present writ petition came to be filed.

3. Section 33 of the Indian Stamp Act, 1899 provides for impounding of the documents whenever an instrument not duly stamped is offered for evidence, the trial Court rightly referred the instrument for levy of stamp duty and penalty. It is the statutory duty of the first respondent to examine the



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instrument and fix the stamp duty and penalty. The reason given by the first respondent for not undertaking this exercise is clearly not sustainable. Admittedly, the land in question did have some value even in the year 1968. Merely because the guideline value register came to be prepared in the year 1968, that would not mean that the land did not have any value in the year 1965. It is for the first respondent to undertake a notional exercise and peruse the materials on record. There would have been some registered transactions even during the relevant period. In any event, this task will have to be discharged only by the first respondent.

4. In this view of the matter, the impugned communication is set aside. The first respondent is directed to examine the petition mentioned instrument and fix the stamp duty and penalty. The petitioner is ready to pay the amount to be fixed by the first respondent. There upon, the document in question shall be returned to the court concerned. The entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

5. The Writ Petition is allowed. No costs.

02.07.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

rmi

To

- 1.The District Registrar (Administration),
Sivagangai District,
Sivagangai.
- 2.The Sub-Registrar,
Sivagangai District,
Sivagangai.

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