



W.P(MD)No.17389 of 2022

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 18.03.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.17389 of 2022

and

W.M.P.(MD)No.12665 of 2022

Jayakumaran Nair

... Petitioner

Vs.

1.The Special Collector,  
Stamp, Thirunelveli,  
Thirunelveli District.

2.The District Registrar,  
Registration Department,  
Thirunelveli,  
Thirunelveli District.

3.The Sub-Registrar,  
Radhapuram Sub-Registrar Office,  
Radhapuram,  
Thirunelveli District.

... Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records, relating to the proceeding No-XI-1029/2021 dated 28.03.2022 issued by the 1st Respondent and quash the same as illegal, arbitrary and unconstitutional,



**W.P(MD)No.17389 of 2022**

and also contrary to the provision and also violation of principles of Natural Justice.

For Petitioner : Mr.S.Anwar Sameen,  
For Mr.T.Antony Arul Raj.

For Respondents : Mr.D.S.Neduncheziyan,  
Government Advocate.

### **ORDER**

Heard both sides.

2.The petitioner challenges the impugned order passed by the first respondent under Rule 4 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968.

2.The petitioner purchased the property in question along with one Mohammed Ali on 23.01.2019. The petitioner was called upon to pay deficit stamp duty of sum of Rs.53,230/-. The petitioner paid the same on 22.07.2019. The document was also released. Thereafter, the Sub-Registrar sent notice dated 17.12.2019 calling upon the petitioner to deficit stamp duty of sum of



**W.P(MD)No.17389 of 2022**

Rs.38,14,185/-. The petitioner offered his objections on 01.02.2020. When the matter was pending thus, the impugned order dated 28.03.2022 came to be issued provisionally determining the market value as Rs.4,48,17,783/-. Challenging the same, the present writ petition came to be filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4.The learned Government Advocate submitted that what has been determined is only provisional market value and nothing else. The petitioner can very well offer his explanation. The first respondent is obliged to hear the petitioner and thereafter pass final order under Rule 7. When the statute provides comprehensive scheme, the petitioner should not be allowed to bypass the same. This is the objection raised by the learned Government Advocate. He called upon this Court to dismiss the writ petition.

5.I carefully considered the rival contentions and went through the materials. Rule 4 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 reads as follows:-



**W.P(MD)No.17389 of 2022**

***“4. Procedure On Receipt Of Reference Under Section 47-A :-***

- (1) On receipt of a reference under subsection (1) of section 47-A, from a registering officer, the Collector shall issue a notice in Form I,*
- (a) to every person by whom, and*
  - (b) to every person in whose favour the instrument has been executed, informing him of the receipt of the reference and asking him to submit to him his representations, if any, in writing to show that the market value of the property has been truly set forth in the instrument, and also to produce all evidence that he has in support of his representation, within 21 days from the date of service of the notice.*
- (2) The Collector may, if he thinks fit, record a statement from any person to whom a notice under sub - rule (1) has been issued.*
- (3) The Collector may for the purpose of his enquiry-*
- (a) call for any information or record from any public office, officer or authority under the Government or any local authority;*
  - (b) examine and record statements from any member of the public, officer or authority under the Government or the local authority; and*
  - (c) inspect the property after due notice to the parties concerned.*
- (4) After considering the representations, if any, received from the person to whom notice under sub-rule (1) has been issued, and after examining the records and evidence before him, the Collector shall pass an order in writing provisionally determining the market value of the properties and the duty payable. The basis on which the provisional market value was arrived at shall be clearly indicated in the order.”*

6.A reading of the aforesaid rule indicates that after reference is received by the Special Deputy Collector (Stamp), he should call upon the party to the



**W.P(MD)No.17389 of 2022**

document to submit his representation to show that the market value of the property has been truly set forth in the instrument and also to produce all evidence that he has in support of his representation. Thereafter, it is open to the Special Deputy Collector (Stamp) to record the statement of the noticee. Only thereafter, the market value of the property must be provisionally determined. In this case, the reference first cited shows that letter was received from the registering authority on 07.01.2021. Thereafter, Form I notice was said to have been issued on 28.03.2022. The inspection report is also dated 28.03.2022. The impugned order is also dated 28.03.2022. There is nothing on record to show that the procedures set out in Rule 4(1) has been followed. I am more than satisfied that the procedure set out in Rule 4(1) to (3) have not all been followed. Straightaway the provisional market value has been determined. In this view of the matter, the impugned proceeding stands set aside. It is open to the first respondent to take action as per law. The writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

**18.03.2024**

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



WEB COPY



**W.P(MD)No.17389 of 2022**

**G.R.SWAMINATHAN, J.**

ias

To:-

- 1.The Special Collector,  
Stamp, Thirunelveli,  
Thirunelveli District.
- 2.The District Registrar,  
Registration Department,  
Thirunelveli,  
Thirunelveli District.
- 3.The Sub-Registrar,  
Radhapuram Sub-Registrar Office,  
Radhapuram,  
Thirunelveli District.

**W.P(MD)No.17389 of 2022**

**18.03.2024**