BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 28/08/2024

CORAM

The Hon`ble Mr.Justice N.SATHISH KUMAR

WP(MD). No.19900 of 2024
and WMP(MD) Nos.16856 & 16858

V.Packiamurugan ... Petitioner

Vs

1. The District Registrar,
Registration Department,
Thenkasi..

2. The Sub Registrar,
Office of the Sub Registrar,
No.1, Joint Sub Registrar,
Thenkasi.. ... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of the 2nd respondent dated 25.07.2024 with respect to Doc.No.1/163/2023 to set aside the same with a consequential direction directing the 2nd respondent to refund the excess stamp duty and registration charges (totally Rs.6,47,334/-) paid by the petitioner towards the registration of Sale Certificate.

For Petitioner : M/s.Polax Legal Solutions,
For Respondent : Mr.P.Subbaraj for R1 & R2

ORDER

The petitioner has registered the sale certificate on 19.01.2023 in Doc. No.163/2023. At the relevant point of time, the petitioner has also paid necessary charges. Now a demand notice has been issued by the respondents claiming a sum of Rs.1,14,849/-. Challenging the said demand, the petitioner is before this Court.

2. By consent of both sides, the writ petition is taken up for final disposal at the stage of admission itself.

3. The petitioner has purchased the property on the sale price of Rs.69,45,338/- in a public auction conducted on 29.10.2022. He has paid a sum of Rs.4,81,195/- towards stamp duty and Rs.2,77,830/- as registration charges on 18.01.2023. Once again on 24.01.2023, the petitioner was asked to pay a deficit stamp duty of Rs.1,94,110/- and Rs.1,10,920/- towards deficit registration fees by issuing the impugned notice.

4. No counter has been filed in this matter. I have considered the rival submissions and perused the materials available on record.

5. As far as the payment of stamp is concerned, this Court, by order dated 23.07.2024, in a batch of writ petitions in WP Nos.3696 of 2023, has held that the sale certificate will not come under the purview of conveyance, since it is not a transfer inter vivos, it is a transfer by operation of law. Section 47A of the Stamp Act cannot be invoked for the sale certificate presented for registration by the parties and further stamp duty has to be paid only on the purchase money. As far as the sale certificate is concerned, stamp on the sale certificate is payable as per Article 18 of the Stamp Act only on the market value of the purchase money only. Therefore, having collected excess amount, now the impugned notice once again cannot be issued and hence, the same is liable to be quashed.

6. Accordingly, the writ petition is allowed and the impugned order is quashed. as far as the refund is concerned, liberty is granted to

the petitioner to approach the authorities to seek refund. No costs. Consequently connected Miscellaneous Petitions are closed.

28.08.2024

RR

TO

1. The District Registrar,
   Registration Department,
   Thenkasi..

2. The Sub Registrar,
   Office of the Sub Registrar,
   No.1, Joint Sub Registrar,
   Thenkasi..

N.SATHISH KUMAR,J

RR

ORDER
IN
WP(MD) No.19900 of 2024

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