THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2025

CORAM :

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.9877 of 2018
and W.M.P.No.11917 of 2018

Mohammed Farhan .. Petitioner

-vs-

1. The Inspector General of Registration,
   No.100, Santhome High Road,
   Chennai 600 028.

2. The Sub Registrar,
   Chennai Central Joint-II,
   Chennai.

3. The Chief Commissioner of Income Tax,
   Nungambakkam, Chennai 600 034.

4. The Assistant Commissioner of Income Tax,
   Nungambakkam, Chennai 600 034. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the 1st respondent to refund a sum of Rs.9,18,253/- paid by the petitioner towards Stamp Duty, Rs.5,24,716/- towards Registration fees, in total Rs.14,42,969/- which was paid for registering the sale deed dated 20.07.2018

Doc.No.961/2018 on the file of the Respondent No.2 herein (Prayer Amended as per order dated 25.04.2024 in WMP.No.12764/2024 in WP).

For Petitioner	:	Mr.L.Chandrakumar
For Respondents	:	Mr.B.Vijay Special Govt. Pleader

* * * * *

ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the first respondent to refund a sum of Rs.9,18,253/- paid by the petitioner towards stamp duty and Rs.5,24,716/- paid towards registration fees towards the sale deed dated 20.07.2018 which was registered as Document No.961 of 2018.

2. The case of the petitioner is that he entered into an agreement of sale dated 28.10.2015, which was registered as Document No.1296 of 2015, with one A.K.Rifaudeen. By virtue of this agreement of sale, the petitioner was proposing to purchase 50% of the undivided share in the property for a total sale consideration of Rs.1 crore. Thereafter, there was a litigation, which went on till the

year 2018, before this Court in C.S.No.195 of 2009, as a result of which, the sale did not go through. Ultimately, the parties entered into a compromise and filed an application in A.No.7000 of 2017 before this Court. Based on the same, a compromise decree came to be passed on 16.11.2017. Pursuant to the same, sale deed dated 19.09.2018 was executed in favour of the petitioner. While executing the sale deed, the total sale consideration was fixed at Rs.1 crore, as was fixed in the agreement of sale. A doubt was entertained on the valuation of the property and hence, proceedings were initiated under Section 47A(1) of the Indian Stamp Act, 1899. Ultimately, the market value was fixed at Rs.2,31,17,850/-. On such fixation, the petitioner also paid the deficit stamp duty and the deficit registration fees.

3. The specific case of the petitioner is that such payment of deficit stamp duty and registration fees was made under protest and that the respondents ought not to have collected the stamp duty and registration fees based on the market value and it should have been done only based on the guideline value as was prevailing during the relevant point of time. It is under these circumstances, the present writ petition came to be filed before this Court.

4. The second respondent has filed a counter and has denied the claim made by the petitioner and has sought for the dismissal of this writ petition.

5. Heard Mr.L.Chandrakumar, learned counsel for the petitioner and Mr.B.Vijay, learned Additional Government Pleader for the respondents.

6. When the writ petition came up for hearing on 05.02.2025, this Court passed the following order:

> *"The only issue that is involved in the present writ petition is regarding the value that has to be taken for the purpose of fixation of the stamp duty. The earlier view was that the value was mentioned in the Sale agreement has to be taken into consideration and not the guideline value. This view has been subsequently altered and the Apex Court has held that the stamp duty must be paid on the market value as on the date of registration of the document. The latest in the series of those judgments is the judgment in* ***Shanthi Bhusan (died) thr. LR and other Vs. the State of Uttarpradesh and others***, reported in **2023 SCC Online Sc 489.**
>
> 2. The learned counsel for the petitioner seeks for

time.

3. Post this case under the caption for orders on 12.02.2025."

7. The main ground that was raised on the side of the petitioner is that the parties had already fixed a sale consideration under the agreement of sale and due to the pending litigation, there was a delay in the execution of the sale deed for nearly three years. Hence, if at all the valuation has to be fixed, it can only be based on the guideline value of the property and the respondents ought not to have collected the stamp duty and registration fees on the market value.

8. In the considered view of this Court, adjudication has already taken place under Section 47A(1) of the Stamp Act and the value of the property has been determined at Rs.2,31,17,850/-. Based on the same, the deficit stamp duty and registration fees has been collected from the petitioner. If the petitioner is aggrieved by the value fixed, he ought to have filed an appeal under Section 47A (6) of the Stamp Act and questioned the very value that was fixed for the property. Without doing the same, no useful purpose will be served in seeking a refund of the deficit stamp duty and registration fees.

9. It must be kept in mind that the value of the property can be determined only as on the date when the document is presented for registration and the law on this aspect has been well-settled. Hence, the value as fixed under Section 47A(1) of the Stamp Act having become final, there is no scope for an order for refund of the stamp duty and registration fees, since it will indirectly result in questioning the value that was fixed by the authorities, which was never challenged by the petitioner.

10. In the light of the above discussion, this Court does not find any ground to grant the relief as sought for by the petitioner. Accordingly, this writ petition is dismissed. It goes without saying that if the petitioner is aggrieved by the value that was fixed under Section 47A(1) of the Stamp Act, it is left open to the petitioner to work out his remedy in the manner known to law. No costs. Consequently, W.M.P.No.11917 of 2018 is also dismissed.

12.02.2025

Index : Yes/No
Website : Yes/No
Speaking/Non-speaking Order

sra

To

1. The Inspector General of Registration,
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N.Anand Venkatesh, J.

(sra)

W.P.No.9877 of 2018

12.02.2025