IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.7797 of 2019
and W.M.P.No.8440 of 2019

Ravi @ KN.Annamalai ...Petitioner

-Vs-

The Joint Sub Registrar No.2,
Villupuram. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the proceedings of the respondent in the impugned notice dated 15.02.2019 in respect of document No.2955/2012 on the file of the respondent herein and quash the same.

For Petitioner : Mr.N.Suresh

For Respondent : Mr.Abhishek Murthy
Government Advocate

ORDER

This writ petition has been preferred as against the impugned notice dated 15.02.2019, issued by the respondent thereby directed the petitioner to pay deficit stamp duty to the tune of Rs.1,00,000/- and deficit registration fee to the tune of Rs.2,01,960/- in total a sum of Rs.3,01,960/-.

2. The petitioner had entered into an agreement to sell his property comprised in survey Nos.161/5A, 161/6 and 161/8 totaling 2.64 acres for purchase of the properties from one Kumar. It was presented for registration and the same was registered vide document No.2955/2012. The petitioner duly paid the stamp duty and registration fees at the time of registration of agreement for sale. However, the said sale was not proceeded further and it was later cancelled by the registration of cancellation deed dated 15.05.2013 vide document No.2224/2013. After a period of seven years, the respondent issued notice to the petitioner to pay deficit stamp duty and deficit registration deed to the tune of Rs.3,01,960/-. Hence, the petitioner filed the present writ petition.

3. The learned counsel appearing for the petitioner submitted that the impugned notice is in violation of the provisions under the Indian Stamp Act. As per Section 33-A of the Indian Stamp Act, the registering authority can recover deficit stamp duty only within a period of three years from the date of the registration of document. More over the

petitioner cancelled the agreement of sale and therefore he is not liable to pay any deficit stamp fee or registration fee.

4. The learned Government Advocate appearing for the respondent submitted that though the petitioner cancelled the agreement for sale, if the petitioner paid the deficit stamp duty and registration fee, the petitioner is liable to pay the same under Section 33-A of the Indian Stamp Act.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. It is true that though the petitioner cancelled the agreement for sale, he is liable to pay the deficit stamp duty as well as the registration fee. It is relevant to extract the provision under Section 33-A of the Indian Stamp Act, as follows :-

> *"33-A. Recovery of deficit stamp duty.-(1) Notwithstanding anything contained in section 33 or in any other provisions of this Act, if after the registration of any instrument under the Registration Act, 1908 (Central Act XVI of 1908), it is found that the proper stamp duty*

payable under this Act in respect of such instrument has not been paid or has been insufficiently paid, such duty or the deficit, as the case may be, may, on a certificate from the Registrar of the district under the Registration Act, 1908 (Central Act XVI of 1908) be recovered from the person liable to pay the duty, as an arrear of land revenue.

Provided that no such certificate shall be granted unless due inquiry is made and such person is given an opportunity of being heard

Provided further that no such inquiry shall be commenced after the expiry of three years from the date of registration of the instrument.

(2) The certificate of the Registrar of the district under sub-section(1) shall, subject only to appeal under sub-section(3), be final and shall not be called in question in any court or before any authority.

(3) Any person aggrieved by a certificate of the Registrar of the district under sub-section (1) may appeal to the Chief Controlling Revenue Authority. Any such appeal shall be preferred within such time, and shall be heard and disposed of in such manner, as may be prescribed."

Thus it is clear that after expiry of three years from the date of the registration of the instruments, the respondent is not entitled to commence the enquiry under Section 33-A of the Indian Stamp Act.

7. In the case on hand admittedly there was no enquiry as contemplated under Section 33-A of the Indian Stamp Act. The respondent straightly issued impugned notice thereby called upon the petitioner to pay deficit stamp duty and deficit registration fee without conducting any enquiry. Further the impugned notice was issued after the period of seven years from the date of the registration of agreement for sale. On that ground alone the impugned notice cannot be sustained and is liable to be set aside.

8. In view of the above discussions, the impugned notice dated 15.02.2019 issued by the respondent is hereby set aside and the Writ Petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

01.09.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
rts

G.K.ILANTHIRAIYAN. J,

rts

To

The Joint Sub Registrar No.2,
Villupuram.

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and W.M.P.No.8440 of 2019

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