IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2025

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.34691 of 2024
and
W.M.P.No.37626 of 2024

Anandhi Srinivasan
W/o.V.S.Srinivasan ... Petitioner

Vs.

Sub Registrar,
Sub Registrar Office,
Guduvancheri. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings of the respondent in Doc.No.3330/2009 dated June 2024 and quash the same as illegal, incompetent and to consequently direct the respondent to remove the deficit stamp duty entry made in the Encumbrance Certificate of the petitioner's property comprised in Survey Nos.8/2 and 22/3C2, bearing Plot No. 251, in an approved layout under D.T.C.P. Approval No.151/ 2006 named as "Sreemath Ramanjuar Town" in Rathinamangalam Village, Vandalur, Chengalpattu Taluk (presently Vandalur Taluk), Kancheepuram District (Presently Chengalpattu district).

For Petitioner : Mr.V.Kuberan

For Respondent : Mr.B.Vijay
Additional Government Pleader

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O R D E R

This writ petition has been filed challenging the impugned proceedings of the respondent dated ...06.2024 and for a consequential direction to the respondent to remove the entry made in the encumbrance certificate with respect to the deficit stamp duty covering the subject property.

2. Heard Mr.V.Kuberan, learned counsel for the petitioner and Mr.B.Vijay, learned Additional Government Pleader appearing for respondent.

3. The case of the petitioner is that she purchased the subject property in Plot No.251 comprised in Survey Nos.8/2 and 22/3C2 through a registered sale deed dated 09.07.2009. Thereafter, the patta was also issued in favour of the petitioner in Patta No.992.

4. The grievance of the petitioner is that she received the impugned notice from the respondent directing the petitioner to pay the deficit stamp duty to the tune of Rs.1,15,728/- payable towards the sale deed of the petitioner's vendor in document Nos.8111 of 2005 and 8112

of 2005. Aggrieved by the same, the present writ petition has been filed before this Court.

5. Counter affidavit has been filed by the respondent and the respondent has taken a stand that there was undervaluation when the original sale deed was executed. Hence, proceedings were initiated under Section 47A(3) of the Indian Stamp Act, 1899. The same resulted in determination order dated 20.08.2009. Aggrieved by the same, the original owner filed an appeal and the appellate authority through order dated 18.02.2011 confirmed the determination order under Section 47A(5) of the Indian Stamp Act, 1899. Thereafter, for the purpose of recovering the deficit stamp duty with interest, proceedings have been initiated under the Revenue Recovery Act and notice was issued to the petitioner. Hence, it is stated in the counter that a charge has been created on the property and it runs with the property and therefore, the petitioner is liable to pay the amount that has been demanded by the respondent.

6. This Court carefully considered the submissions made on either side and the materials available on record.

7. The main grievance expressed by the petitioner is that she was not aware of the determination order or the order passed by the appellate authority. All of a sudden, in the year 2024, notice was issued demanding for the deficit stamp duty along with interest at the rate of 24% p.a. It was submitted that the amount is recoverable only from the original owner of the property and there was no reason as to why no demand was made for the period from 2009-2024. Accordingly, it was submitted that the entire deficit stamp duty along with interest can be recovered only from the original owner and not from the petitioner.

8. *Per contra,* learned Special Government Pleader submitted that the order passed by the authority has become final since it was confirmed in appeal and therefore, the deficit stamp duty becomes recoverable along with statutory interest. Till the amount is recovered, there will be a charge on the property as provided under Section 47A(4) of the Indian Stamp Act, 1899.

9. In the considered view of this Court, the determination order dated 20.08.2009 has become final since it was confirmed in appeal by the appellate authority under Section 47A(5) by order dated 18.02.2011.

Once the order has become final, the charge is created on the property under Section 47A(4) of the of the Indian Stamp Act, 1899. Hence, there is no escape from paying the deficit stamp duty. The only issue to be considered is as to whether the petitioner must be mulcted with 24% interest on the deficit stamp duty.

10. The petitioner was completely in dark right through and has come to know about the proceedings initiated under Section 47A of the of the Indian Stamp Act, 1899, only when she received the notice in the year 2024. There is absolutely no reason as to why no proceedings were initiated from 2009-2024. At this length of time, if 24% interest is levied, the petitioner will be certainly put to untold hardship.

11. In order to render substantial justice in exercise of jurisdiction under Article 226 of the Constitution of India, this Court is inclined to direct the petitioner to pay the deficit stamp duty with interest at the rate of 6% p.a. This will sufficiently lessen the burden of the petitioner and at the same time, the revenue will also be able to recover the money. The inaction on the part of the respondent in not initiating any proceedings from 2009-2024 impelled this Court to reduce the interest from 24% to 6%.

N.ANAND VENKATESH, J

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In the result, this writ petition is partly allowed and there shall be a direction to the petitioner to pay the deficit stamp duty of Rs.43,514/- with interest at the rate of 6% p.a. from 2009 to 2024 and this payment shall be made by the petitioner to the respondent within a period of six (6) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

14.03.2025

Neutral Citation: Yes/No
Index: Yes/no
Speaking Order/Non-Speaking Order
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To
The Sub Registrar,
Sub Registrar Office,
Guduvancheri.

Writ Petition No.34691 of 2024