IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.01.2025

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.No.735 of 2025
and W.M.P.Nos.901 & 902 of 2025

D.R.Jeganathan ...Petitioner

Vs.

1.The Deputy Inspector General of Registration,
Coimbatore
Coimbatore District.

2.The District Registrar,
Tiruppur,
Tiruppur District.

3.The Sub Registrar,
Moolanur,
Tiruppur District.

4.The Authorised Officer,
Canara Bank,
Kannivadi Branch,
Dharapuram Taluk,
Tiruppur District. ...Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Manadamus to call for the records of order dated 04.12.2024 on the file of 3rd respondent and quash the same and consequently direct the 3rd respondent to release the registered sale certificate of petitioner bearing No.3180 of 2022 on the file of 3rd respondent within stipulated time as fixed by this Court.

For Petitioner	:	Mr.K.Myilsamy
For Respondents	:	Ms.C.Meena Arumugam for R1 to R3 Special Government Pleader

<u>O R D E R</u>

The petitioner would submit that he purchased the property through a public auction conducted by the fourth respondent Bank. On receipt of payment, the fourth respondent Bank issued a Sale Certificate in favour of the petitioner. The petitioner presented the Sale Certificate before the third respondent for registration. The petitioner has also paid stamp duty and registration charges. After a lapse of two years, the third respondent passed an order directing the petitioner to pay deficit stamp duty.

2.The petitioner would further submit that as per Article 18 of the Stamp Act, when a Sale Certificate is presented for registration, the duty shall be calculated only on the purchase money and not on the market value. In this case, Section 47 A of the Registration Act is not applicable.

That apart, the demand of the third respondent directing the petitioner to pay the deficit stamp duty is without jurisdiction. The Sale Certificate is within the custody of the third respondent. Therefore, the petitioner is before this Court.

3.Heard the learned counsel on either side and perused the materials available on record.

4.A similar issue has been dealt by this Court in the case of ***Sri Balaji Fibre represented by its Partner Mr.D.Kavi Kumar vs. Inspector General of Registration*** and Others reported in ***2024 SCC Online Mad 3737,*** the learned Single Judge after considering various judgments and the provisions of the Act had held as follows:

> ***64.*** *The above provision makes it clear that only when the property is transferred inter vivos, the same will come within the ambit of conveyance. As far as the sale certificate issued by the authorised officer is concerned, as discussed above, sale is only by operation of law not by transfer inter vivos. Therefore, stamp duty*

is payable only for conveyance. In such cases, 5% duty alone is payable, that too on the purchase money only. Therefore, invoking provisions under Section 47-A of Indian Stamp Act by the authorities for the registration of sale certificate is not permissible under law. Section 47-A can only be invoked when the registrar has reason to believe that the market value of the property of which is the subject matter of conveyance [exchange, gift, release of benami right or settlement] has not been truly set forth in the instrument, executed inter vivos not on the instrument by operation of law, when specific provision made under Stamp Act to levy duty on sale certificate under Article 18 of the Stamp Act, duty can be levied strictly according to that provision alone. Therefore, this Court is of the view that the authorities cannot treat the sale certificate as transfer by inter vivos for referring the instrument under Section 47-A of the Stamp Act, since, the sale certificate is not a transfer by act of parties rather it is by operation of law, i.e., compulsory sale.

5.In the light of the above judgment, the impugned order passed by the third respondent cannot be sustained and accordingly the impugned order is set aside and the Writ Petition is allowed. The third respondent is directed to release the Sale Certificate to the petitioner within a period of 3 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

21.01.2025

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To

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Tiruppur, Tiruppur District.

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Tiruppur District.

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P.T.ASHA, J.

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