BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.01.2025**

CORAM:

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

W.P.(MD)No.3087 of 2025
& W.M.P.(MD)No.2153 of 2025

C.Deenathayalapandian ... Petitioner

/Vs./

1.The Sub Registrar,
Sub Registration Office,
Nilakottai, Dindigul District.

2.A.M.Ashok ... Respondents

PRAYER**:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to notice dated 21.11.2024 with respect to Document No. 3476/2024 issued by the 1st respondent and quash the same.

For Petitioners : Mr.A.Senthilkumar

For Respondents : Mr.D.Sadiq Raja,
Addl. Government Pleader (R1)

ORDER

This writ petition has been filed challenging the notice issued by the first respondent dated 21.11.2024 in respect of the sale deed vide Document No.3476 of 2024.

2. Considering the nature of the order going to be passed in this writ petition, notice to the second respondent is dispensed with. Heard the learned counsel on either side and perused the materials placed before this Court.

3. The petitioner sold the property to the second respondent by the registered sale deed dated 10.07.2024 vide Document No.3476 of 2024 on payment of stamp duty and requisite registration fee, on valuation of the property at Rs.3,61,18,782/-. However, the first respondent issued notice dated 21.11.2024 thereby raised a demand to pay additional stamp duty at Rs.17,14,967/- on the ground that the building situated in the property is valued at Rs.4,50,40,425/-. The impugned demand was raised on the basis of the valuation done by the Assistant Engineer (PWD).

4. Even assuming that there is a deficit stamp duty to be collected from the petitioner, the only option available to the first respondent is under Section 33-A of the Indian Stamp Act, 1889. Therefore, the Registering authority becomes *functus officio*, after registering the documents and having it get released. The provision under Section 33-A of the Indian Stamp Act, 1889 enables recovery of deficit stamp duty. It is relevant to extract the same, which reads 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 subsection(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."

5. Thus, the procedure has to be followed by giving an opportunity of hearing to the petitioner, after issuance of notice. Therefore, the registering authority cannot raise any demand directly on the basis of the inspection report.

6. In view of the above, the impugned notice cannot be sustained and is liable to be quashed. Accordingly, the impugned notice dated 21.11.2024 passed by the first respondent is hereby quashed. The first respondent is directed to proceed as against the petitioner under Section 33-A of the Indian Stamp Act, 1889 in accordance with law.

Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

31.01.2025

Index : Yes / No
NCC : Yes / No
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TO:-

The Sub Registrar,
Sub Registration Office,
Nilakottai, Dindigul District.

G.K.ILANTHIRAIYAN, J.

Sm

Order made in
W.P.(MD)No.3087 of 2025

Dated:
31.01.2025