

W.P(MD)No.4288 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2025

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Writ Petition(MD)No.4288 of 2023

and

W.M.P(MD)No.2495 of 2024

A.Indira

..Petitioner

Vs

- 1.The Inspector General of Registration,
Registration Department,
No.100, Santhome Road,
Pattinampakkam,
Chennai – 28.
- 2.The Deputy Inspector General of Registration,
Registration Department,
Tirunelveli.
- 3.The District Registrar,
Registration Department,
Nagercoil,
Kanyakumari District.
- 4.The Sub Registrar,
Registration Department,
Edalakudi,
Kanyakumari District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue of Writ of Certiorarified Mandamus to call for the records of the 6th respondent in Na.Ka.X4/236/2016 dated 23.01.2023 and quash the same as illegal and consequently direct the 4th respondent to



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release the sale deed registered as Document No. 3043/2015 of Edalakudi Sub Registrar Office forthwith.

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For Petitioner : Mr.C.Sankar Prakash

For Respondents : Mr.N.Ramesh Arumugam
Govt. Advocate

ORDER

This writ petition is filed to quash the impugned order of the 6th respondent in Na.Ka.X4/236/2016 dated 23.01.2023 and to direct the 4th respondent to release the sale deed registered as Document No. 3043/2015 of Edalakudi Sub Registrar Office forthwith.

2. It is the claim of the petitioner that she had purchased a coconut garden measuring an extent of 5.5 ares comprised in R.S.No.474/2 situated at the former Thengamputhoor Revenue Village, at present Puthalam Revenue Village, from one Rajamani. According to her, the value of the property comes to Rs.10,000/- per cent. The petitioner had paid a sum of Rs.1,35,850/- to the said Rajamani.

3. The document was presented for registration. It was registered as Doc. No.3043/2015 on the file of the fourth respondent. The fourth respondent invoked the power under the Stamp Act and impounded the document, stating that he had a doubt whether the land was garden land or the house site, as the area of the alienation was below 20 ares.



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4. The petitioner states that the matter was referred under Section 47A(1), and the petitioner raised an objection to the said proceedings by way of a representation dated 07.07.2016. The third respondent also intimated the petitioner regarding the proceedings under Section 47A(1) on 08.08.2016. The petitioner pleads that she was not made aware of the fate of the proceedings. All of a sudden, she was visited with the impugned order dated 23.01.2023 calling upon her to pay a sum of Rs. 48,723/- towards the deficit stamp duty and the registration charges. Aggrieved by the same, the present writ petition.

5. This Court, at the time of admission, had noticed that the procedure set out in the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, had not been followed and consequently, had granted interim stay.

6. When the matter came up for hearing today, I heard Mr.C.Sankar Prakash, for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate for the respondents.

7. Mr.N.Ramesh Arumugam contended that the impugned order is merely a reminder issued to the petitioner to avail the scheme that had been introduced, in order to reduce the number of cases under Section 47A(1),



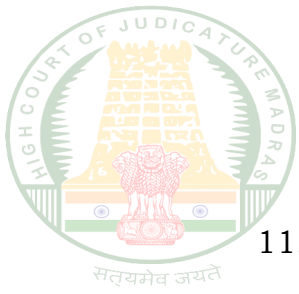
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and that this in no way affects the right of the writ petitioner. He further stated that the final order had been passed on 05.07.2017. The petitioner had not challenged the same. Instead of challenging the final order, she challenged the notice that had been issued calling upon her to comply with the said order.

8. A reading of the impugned order shows that the contention of Mr.N.Ramesh Arumugam is justified. The impugned order shows that the final order had been passed on 05.07.2017 and no further steps had been taken by the petitioner. The petitioner was called upon to pay the balance of Rs.48,723/-. This in no way affects the right of the writ petitioner.

9. Mr.C.Sankar Prakash argued that the petitioner is not aware of any order being passed on 05.07.2017. Hence, I called upon Mr.N.Ramesh Arumugam to produce the acknowledgement from the writ petitioner regarding the communication of the order dated 05.07.2017. The matter is adjourned today for production of the same.

10. When the matter was taken up for hearing, Mr.N.Ramesh Arumugam, stated that in 2023 there was a flood in Tirunelveli and the records relating to the proof of service of this order of the petitioner had been misplaced. He has been kind enough to produce the order determining the amount payable by the writ petitioner dated 05.07.2017 along with the said instructions.



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11. It is the settled position of administrative law that not only must an order be passed, but also be communicated to the affected party before it can effect to be given. An order passed by an authority and kept in the files is no order at all. The respondents have not been in a position to produce the acknowledgement card to show that the order was served on the writ petitioner.

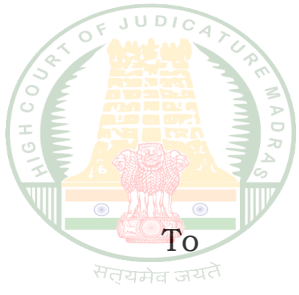
12. Mr.C.Sankar Prakash has been served with the copy of the order dated 05.07.2017, which he has acknowledged before the Court. The same is recorded.

13. The writ petitioner is permitted to challenge the order dated 05.07.2017 within 30 days from today before the appropriate forum. If filed within 30 days from today, the same shall be entertained without insisting on an application to condone the delay. It is open to the writ petitioner to seek any interim order before the appellate authority.

14. With the above observations, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

22.04.2025

NCC : Yes/No
Index : Yes/No
Internet:Yes
skn



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V.LAKSHMINARAYANAN, J.

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