BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2025

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THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD).No.5424 of 2025
and
W.M.P.(MD).No.3970 of 2025

K.Padma Priya .. Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The District Registrar,
Madurai South Registration District,
Madurai.

3.The Sub Registrar,
The Sub Registration Office,
Thiruparankundram,
Madurai District. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, to call for the records relating to the impugned order dated 06.01.2025 passed by the 3rd respondent / The Sub Registrar, Thiruparankundram and quash the same.

For Petitioner : Mr.B.Vijaykarthikeyan

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

This Writ Petition is filed challenging the impugned order dated 06.01.2025 passed by the 3rd respondent / The Sub Registrar, Thiruparankundram.

2. The petitioner purchased the property situated at Re-Survey No. 344/4 at Thiruparankundram Village, Thiruparankundram Taluk, Madurai District. The sale deed was registered on 26.04.2021 in Document No. 1712/2021. After a lapse of four years and more, the third respondent passed the impugned order dated 06.01.2025, calling upon the petitioner to pay deficit stamp duty of Rs.6,99,680/- and deficit registration charges of Rs.3,99,836/-. Challenging the same, the present Writ Petition.

3. When the matter came up for admission, Mr.R.Suresh Kumar, learned Additional Government Pleader took notice for the respondents. In the written instructions that have been given to Mr.R.Suresh Kumar, the third respondent has pleaded that he is invoking the power under Section 47A of the Indian Stamp Act of 1899 on the basis of the internal audit report.

4. In order to enable to Mr.R.Suresh Kumar to make further submissions, I adjourned the matter today.

5. I heard Mr.Vijay Karthikeyan for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader for the respondents.

6. Mr.Vijay Karthikeyan states that once the registration is completed, the Sub Registrar has to refer the matter immediately for undervaluation under Section 47A(1) of the Stamp Act. He relies upon the judgment of this Court in ***M.Parthasarathy and another Vs. The Joint Sub Registrar-II, Chennai and others, W.P.No.4097 of 2015 dated 23.06.2022*** to press home this point.

7. Mr.R.Suresh Kumar states that the period of limitation for a Sub Registrar to refer the matter under Section 47-A is five years and therefore, the impugned order does not require any interference.

8. I have carefully considered the submissions of both sides. I have gone through the records.

9. As rightly contended by Mr.Vijay Karthikeyan, the Sub Registrar has to refer the matter under Section 47-A(1) to the District Collector

immediately on registration of the document. This issue was the subject matter before a Division Bench of this Court in ***The Special Deputy Collector (Stamps), Palayamkottai, Tirunelveli District and another Vs. M.Alfred and others*** in ***W.A.(MD).Nos.1176 to 1179 of 2017, etc., batch,*** dated ***09.10.2017.*** The Division Bench, taking into consideration that the rules framed by the Government of Tamil Nadu does not contemplate a time limit, had directed the State of Tamil Nadu to look into this issue and frame rules accordingly.

10. In exercise of the powers vested with the State of Tamil Nadu under Section 47A read with Section 75 of the Stamp Act, the Government amended the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules of 1968. Taking cue from the order of the Division Bench in *Alfred's* case, Rule 3 of the said Rules were amended. The Government imposed a duty on the Registering Officer to refer an instrument under Section 47-A(1) to the Collector within 15 days from the date of registration of such instrument.

11. It is pertinent to point out that though two judgments of this Court in ***The District Collector, Erode and Ors. v. M. Ponnusamy***, ***2001 (2) CTC 449*** and ***S.Sivasubramaniam v. Chief Controlling Revenue Authority-cum- Inspector General of Registration, Santhome High***

Road, Chennai- 600028 and others, 2014 (1) MLJ 500, had given a period of three weeks for reference under Section 47-A(1), the Government, in its wisdom, has reduced the said period from three weeks to 15 days. When such is the position, it is not open to the Sub Registrar to refer the matter after a period of four years of registration.

12. Apart from that, there is another insurmountable obstacle for the third respondent. The power of *suo motu* revision of valuation can be done only by the Collector. It cannot be done by the third respondent/Sub Registrar. When the statute has conferred power on the Collector, it cannot be usurped by the Sub Registrar and be exercised by him. This view of mine is in line with the view taken by my brother Justice N.Anand Venkatesh in ***M.Parthasarathy and another Vs. Joint Sub Registrar-II and others, W.P.No.4097 of 2015 dated 23.06.2022.*** The relevant portion is extracted hereunder:

> *"11.There is yet another ground which impels this Court to interfere with the proceedings of the respondents. A close look at the notice issued by the 3rd respondent and also the counter affidavit filed by the 3rd respondent shows that the action has been initiated under Section 47-A(3) of the Indian Stamp Act, 1989. This power under Section 47-A(3) is a suo motu power that has been vested upon the Collector. This power obviously could not have been exercised by the 1st respondent and the only manner in which the 1st respondent could have made a reference to the 3rd respondent is under Section 47-A(1) of the Act. That apart, after the notice was issued by the 3rd*

respondent, the petitioners had given a detailed reply and that was not taken into consideration and the deficit stamp duty as determined by the 1st respondent was fixed by the 3rd respondent. Pursuant to the same, the 4th respondent has initiated proceedings to recover the deficit stamp duty along with interest from the petitioners."

13. Hence, both on the grounds of violation of the mandatory period fixed by the Government under Rule 3(5) of the Tamil Nadu Stamps (Prevention and undervaluation of Instruments) Rules as well as on the ground of jurisdiction, the impugned order cannot be sustained. Accordingly, the Writ Petition is allowed. The impugned order is quashed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

07.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To
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Madurai.

2.The District Registrar,
Madurai South Registration District,
Madurai.

3.The Sub Registrar,
The Sub Registration Office,
Thiruparankundram,
Madurai District.

V.LAKSHMINARAYANAN,J.

Lm

W.P.(MD).No.5424 of 2025

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