BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2025

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THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD).No.5394 of 2025
and
W.M.P.(MD).No.3954 of 2025

V.Chidambaram .. Petitioner

Vs.

1.The Deputy Inspector General of Registration,
O/o.the Deputy Inspector General of Registration,
Trichy – 620 023.

2.The Sub Registrar,
O/o. the Sub Registrar,
Karur West,
Karur. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the 2^{nd} respondent to return the document registered in No.6601/2024 before the 2^{nd} respondent in respect of land and building located in S.F.No.2269/5 to an extent of 586 Sq.ft. (Plot No.A), 841 Sq.ft (Plot No.B) and 948 Sq.ft (Plot No.C) located in Andankovil East, Rasi Nagar, Manmangalam Taluk, Karur District within time frame as fixed by this Court.

For Petitioner : Mr.N.Shanmuga Selvam

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

ORDER

The petitioner seeks issuance of a Writ of Mandamus to direct the second respondent to return the document registered in Document No.6601/2024 dated 13.06.2024 and for consequential orders.

2. The petitioner purchased a property situated at S.F.No.2269/5 to an extent of 586 sq.ft (Plot No.A), 841 sq.ft (Plot No.B) and 948 sq.ft (Plot No.C) located in Andankovil East, Rasi Nagar, Manmangalam Taluk, Karur District. The alienation was made on 13.06.2024 for sale consideration of Rs. 36,25,000/-. When the sale deed was presented for registration, the document was originally assigned a Pending Document No.56/2024 and thereafter, registered as Document No.6601/2024.

3. The petitioner received an intimation from the first respondent that the second respondent had asked him to fix the value of the land and he had fixed it at Rs.4000/- per square feet. Objecting to the said valuation, the petitioner sent his reply on 30.09.2024. Despite the fact that a reply has been given, the

document had not been returned by the second respondent. Hence, the Writ Petition.

4. I heard Mr.N.Shanmuga Selvam for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader, who took notice for the respondents.

5. Mr.N.Shanmuga Selvam relies upon G.O.Ms.No.174, Commercial Taxes and Registration (J1) Department, dated 28.11.2017 and urges that as the Government had fixed a time limit of 15 days from the date of registration for reference to the Collector under Section 47-A(1) of the Indian Stamp Act of 1899, the petitioner is entitled to have the document returned to him.

6. Mr.R.Suresh Kumar argues that in terms of Rule 27 of the Registration Rules, the respondents are entitled to impound the documents and take action in terms of the Indian Stamp Act. He states that the second respondent has recommended the document for initiation of action under Section 47-A of the Indian Stamp Act on 27.02.2025. He adds the period of 15 days fixed under the Government Order is only directory and not mandatory. Hence, he urges that the second respondent is entitled to retain the documents.

7. I have carefully considered the submissions of both sides.

8. There can be no dispute that under Rule 27 of the Registration Rules, the Registering Officer can point out to the party that the document is deficiently stamped and can give him two options,

(i) either to make good the deficiency or,

(ii) impound the document in terms of the Stamp Act and refer the same for necessary action.

9. The issue as to whether a time limit can be fixed by the Court for return of the documents was a subject matter of discussion before the 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***. While disposing of the appeals, the Division Bench passed the following order:

> "*(i) The Secretary, Government of Tamil Nadu, Commercial Taxes and Registration Department, Fort St. George, Chennai, is directed to consider appropriate amendment fixing a time limit for the registering authority to refer the instrument under Section 47-A of the Indian Stamp Act, 1899.*
>
> *(ii) The Secretary, Government of Tamil Nadu, Commercial*

Taxes and Registration Department, Fort St. George, Chennai, or the Inspector General of Registration and Controlling Revenue Authority shall issue appropriate circulars or directions to the Collector, to comply with rule 7(1) of Tamil Nadu State (Prevention of Undervaluation of Instruments) Rules, 1968."

10. In pursuance to the directions given by the Division Bench, the Government of Tamil Nadu fixed a time limit of 15 days, after registration of an instrument by the Registering Officer, for referring to the Collector under Section 47-A(1) of the Indian Stamp Act. It further fixed a time limit of 15 days from the date receipt of the proposal from the Registering Officers for the Collectors to issue notices under Form-I. In accordance with this decision, the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules of 1968 were also directed to be amended.

11. The issue whether 15 days' time fixed by the State Government is mandatory or directory, was a subject matter of interpretation by the Supreme Court in ***Inspector General of Registration, Tamil Nadu and others Vs. K.Baskaran, AIR 2020 SC 3194***. The Supreme Court had framed a specific question in this regard. The question being "whether the stipulation of period of three months in Rule 7 is mandatory or directory?". The Supreme Court held

that the time limit fixed under Rule 7 incorporating a period of three months for passing of final orders determining the market value was essentially to guide the public officials to complete the process as early as possible. It further declared that it was not intended to create a right in favour of those who had *prima facie* conducted themselves prejudicing public interest.

12. The plea of Mr.Suresh Kumar is that the interpretation that has to be applied to Rule 7 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules of 1968 (hereinafter referred to as 'Rules'), has to be applied to Rule 3(5) also.

13. Before coming to Rule 3(5), the Registering Authority is called upon under Rule 3(2) to satisfy himself that the instrument gives the market value of the properties. In case the market value, as required under Section 27 of the Stamp Act, is not set forth, the Registering Officer is entitled to refuse registration. Under Rule 3(3), the Registering Officer, in order to come to the conclusion whether the market value has been correctly furnished in the instrument or not, is entitled to make such enquiries as he deems fit. The rule not only empowers him to elicit information from the concerned parties, but also to call for and examine any records, that is available with any public officer

or authority. Under Rule 3(4), he is entitled to verify the Guidelines Register that has been supplied to him. It is only after having gone through all these processes, if he still entertains a doubt, the Registering Officer should register the document and refer it under Section 47-A(1) within a period of fifteen days from the date of registration.

14. The view in *K.Baskaran's* case holding Rule 7 as directory was on account of the fact that the Court had come to the conclusion that the Government coffers were being denied its rightful dues. In paragraph 30 (SCC judgment), the Supreme Court specifically found that if for any reason, the proceedings are not completed within three months and held to be vitiated, then, the public interest would suffer and the persons, who were *prima facie* responsible for suppressing the real value, would stand to gain. They were dealing with a situation where Rules 4, 5 and 6 had been gone through and the procedure was at the stage of Rule 7. The Court did not rule upon on Rule 3(5) and hold it to be directory. The reason given by the Supreme Court, as extracted above, shows that they did not want to fix a time limit when much water had flown under the bridge and the proceedings were at the stage of final orders. Holding Rule 7 to be directory was on the aspect of conclusion of the proceedings and not with respect to initiation of the proceedings. The time limit

fixed under Rule 3(5) relates to the stage of initiation. That cannot be compared with Rule 7, which speaks about conclusion.

15. In the present case, it is not in dispute that the sale deed was presented for registration on 13.06.2024. The fifteen days' period, as fixed by G.O.Ms.No.174 dated 28.11.2017, expired with 28.06.2024. The second respondent did not exercise the power within the time period. It was nearly 1½ months later that a notice was sent by the first respondent, who is not the authority under the Indian Stamp Act, informing the petitioner that he is proposing to fix the value at Rs.4000/- per square feet.

16. It is too well settled proposition of law, but I have to reiterate the same that when an act is required to be performed in a particular way, it should be performed in that manner and in that way and in no other way. When the Sub Registrar has been directed by the Government to initiate action, if he so desires, within a period of 15 days from the date of registration, it is certainly not open to him to extend the time fixed by the Government by a further period of seven months and to decide to refer the matter only on 27.02.2025.

17. I should also point out that the State authorities should act fairly when it comes to litigation. They are not entitled to present a *fait accompli* to the Court. The petitioner had approached the respondents on several occasions for return of the document. There was absolutely no action on the side of the respondents. It was thereafter, the petitioner approached this Court by way of a Writ Petition. This Writ Petition came to be filed on 25.02.2025 and advance notice is given to the respondents regarding the filing of the case. In order to avoid any orders being passed, much after the time period has expired, the second respondent pleads that he is exercising the power under Rule 27(ii) of the Registration Rules and referring the matter under the Stamp Act. If this Court were to permit the second respondent to violate the Government Orders, it would only result in anarchy. As the power has not been exercised within the time limit fixed by the Government and since the respondents are trying to present a *fait accompli* after receipt of notice in the Writ Petition, I have to hold that the second respondent is not entitled to present a *fait accompli*.

18. In the light of the above discussion, the Writ Petition succeeds and accordingly, it is allowed. There shall be a direction to the second respondent to return the document in Document No.6601/2024 to the petitioner by Monday (03.03.2025). Mr.R.Suresh Kumar, learned Additional Government Pleader

shall intimate this order to the second respondent/Sub Registrar enabling him to return the document. The petitioner shall make himself available to receive the document on Monday (03.03.2025) and compliance shall be reported to this Court on 04.03.2025. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

19. Post the matter on 04.03.2025 under the caption 'for reporting compliance'.

28.02.2025

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

To
1.The Deputy Inspector General of Registration,
O/o.the Deputy Inspector General of Registration,
Trichy – 620 023.

2.The Sub Registrar,
O/o. the Sub Registrar,
Karur West,
Karur.

V.LAKSHMINARAYANAN,J.

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