

W.P.(MD)No.6097 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2025

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.(MD) No.6097 of 2023

R.Sivakumar

... Petitioner

vs.

1.The Sub Registrar (Registration Department),
Pattukottai,
Thanjavur District.

2.The Joint Sub Registrar II,
Pattukottai,
Thanjavur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order dated 02.01.2023 on the file of the 2nd respondent and in consequence direct the 1st respondent to remove the deficit stamp entry from the encumbrance certificate in Document No.1475/2008.

For Petitioner :Mr.Arumugam for
Mr.R.Harinath

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



W.P.(MD)No.6097 of 2023

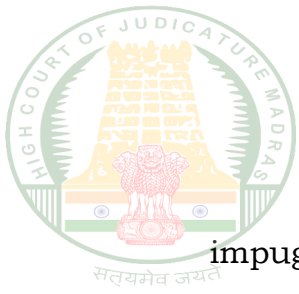
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ORDER

The petitioner has been visited with notices, calling upon him to pay deficit stamp duty and deficit registration charges on 19.12.2016, 30.05.2022 and 02.01.2023.

2.The petitioner purchased the property situated in S.No.191/2, SMS Avenue, Nadiyambalpuam Village, Pattukotai Town, Tanjore District. On 19.06.2008, the document was presented for registration and registered as Doc.No.1478/2008. After a lapse of 8 years, a notice was issued by the second respondent on 19.12.2016, calling upon the petitioner to pay the deficit stamp duty of Rs.1,55,806/-. The petitioner challenged this proceeding before this Court in W.P.(MD) No.1982 of 2017. The said writ petition was allowed on 15.02.2017.

3.After a lapse of 5 years, yet again the second respondent issued a notice identical in all respects to the notice dated 19.12.2016. The petitioner sent a reply on 21.07.2022 through a counsel bringing it to the notice of the second respondent that this Court had already quashed the proceedings and therefore, there is no question of issuing a fresh notice. A copy of the order passed by this Court was also enclosed to the second respondent. Yet again, the



W.P.(MD)No.6097 of 2023

impugned order has been passed, which is identical with the notices

dated 19.12.2016 and 30.05.2022 for the very same purpose.

Challenging the same, the present writ petition.

4.I heard Mr.Arumugam representing Mr.R.Harinath for the petitioner and Mr.R.Suresh Kumar for the respondents 1 and 2.

5.The learned counsel for the petitioner reiterated the contentions in the affidavit. Mr.R.Suresh Kumar placed reliance upon the written instructions received by him to substantiate the impugned order.

6.In terms of second proviso to Section 33A(i) of the Stamp Act, any proceeding with respect to deficit stamp duty would have to be raised within three years from the date of registration of the document. It is not in dispute that the document was registered on 19.06.2008. Three years period expired with 18.06.2011. Issuance of a notice after nearly 12 years, after the period of limitation has gone by, is a sheer abuse of process of law.



W.P.(MD)No.6097 of 2023

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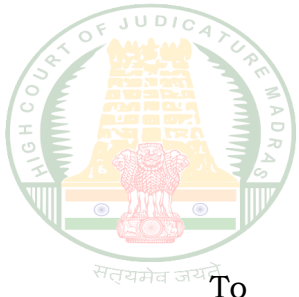
7. Apart from that, this Court in W.P.(MD) No.1982 of 2017, dated 15.02.2017, had already quashed the proceedings initiated on 19.12.2016 as barred by time. To type the very same notice and to issue the same by changing the date of issuance alone is another abuse of powers vested with the respondents. No proceeding under Section 47A(i) of the Act had ever been initiated against the petitioner.

8. As the claim is hopelessly barred by time and since there is an earlier order of this Court quashing the very same notice, I am constrained to entertain this writ petition. Hence, the impugned order is quashed. There shall be a direction to the respondents to remove the entry made in the encumbrance certificate that there is a deficit stamp duty. This direction is given in order to prevent a fresh notice being issued to the petitioner by the respondents for the very same cause of action.

9. In fine, the Writ Petition is allowed. No costs.

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

28.04.2025



W.P.(MD)No.6097 of 2023

To
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Pattukottai,
Thanjavur District.
- 2.The Joint Sub Registrar II,
Pattukottai,
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W.P.(MD)No.6097 of 2023

V. LAKSHMINARAYANAN, J.

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W.P.(MD)No.6097 of 2023

28.04.2025