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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2025

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P(MD)No.7940 of 2025

1.Peylammal

2.Velmurugan

3.Vijayakumar ... Petitioners

Vs.

1.The Deputy Collector (Stamp),
Deputy Collector (Stamp) Office,
Madurai.

2.The District Registrar,
Theni District.

3.The Sub Registrar,
Theni Sub Registration Office,
Theni. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to both the Form -1 show cause notice issued by the first respondent on 14.06.2019 and the Form-II show cause notice issued by the first

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respondent on 15.11.2022 and to quash both of them as ultravires and unsustainable under law and consequently direct the respondents 1 and 3 herein to return back the registered document in Doc. No.1/2571/2019, dated 30.03.2019 to the petitioners herein by confirming the stamp duty amount already paid by them to be correct and pass such further or other orders as this Court.

For Petitioners : Mr.S.Madhavan

For Respondents : Mr.P.T.Thiraviyam
Government Advocate

ORDER

The present writ petition has been filed to quash the show cause notices, dated 14.06.2019 and 15.11.2022 issued by the first respondent and consequently, to direct the respondents 1 and 3 herein to return the registered document in Document No.1/2571/2019, dated 30.03.2019 to the petitioners herein, by confirming the stamp duty amount already paid by them to be correct.

2. One Kesavan registered a document with respect to S.No.509/1A situated at Vadaveeranaickanpatti Village, Periyakulam Taluk, Theni District.

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Kesavan is the husband of the first petitioner and father of petitioners 2 and 3. The document was registered on 30.03.2019. The Sub Registrar at Theni, raised an objection regards stamp duty payable for S.No.509/1A, as he thought it was a house site.

3. The case of the petitioner's father was that, it is not a house site, but it is an agricultural land. To substantiate the plea, the petitioner's father also produced revenue records. The Sub Registrar, not being satisfied with the explanation, referred the matter under Section 47A-(1) of the Indian Stamp Act of 1899 for determination of the correct stamp duty.

4. Proceedings were initiated by the Special Deputy Collector (Stamp), Madurai and Form-1 notice was issued to the said Kesavan. Immediately, Kesavan objected to the same and filed his detailed objections and supporting documents on 07.08.2019. He reiterated the contention that it is only an agricultural land and not a house site. He also requested the Special Deputy Collector (Stamp) to inspect the property so as to come to an independent conclusion as regards the nature of the property. It is alleged that despite the objections raised, no further steps were initiated by the said Officer.

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5. The petitioners concede that Form-II notice was served on Kesavan on 15.11.2022. In the Form-II notice, it was claimed that a sum of Rs.3,40,485/- would have to be paid as deficit stamp duty. Hence, Kesavan yet again, submitted detailed objections on 22.11.2022. Despite all these facts, final orders had not been passed by the Special Deputy Collector. In the meantime, the first petitioner's husband and the father of the petitioners 2 and 3 passed away on 26.02.2023. Hence, being left with no other option, the petitioners have came forward with this writ petition to seek for quashing the proceedings of Form-I and Form-II.

6. When the writ petition came for hearing, Mr.Ramesh Arumugam, took notice for the respondents and stated that he will come up with instructions.

7. Today, when the matter is taken up for hearing, Mr.N.Ramesh Arumugam, produced an order, dated 13.06.2023 and urged that final orders had been passed by the Special Deputy Collector, Madurai on 13.06.2023 in S.R.No.291/2019/Theni. He also relies on the endorsement in the bottom of the

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order to state that it had been dispatched to the father of the petitioner on 17.07.2023.

8. When Kesavan, the first petitioner's husband and father of the petitioners 2 and 3 had expired on 26.02.2023, any order passed after his death, affecting his interest cannot but be treated as a nullity. Hence, the order passed by the Special Deputy Collector (Stamp), Madurai, on 13.06.2023, is hereby quashed. The matter is restored to the file of the first respondent. The first respondent shall hear the petitioners and thereafter, decide whether there is any deficit in the stamp duty with respect to the portion allotted to Kesavan in S.No. 509/1A of Vadaveeranaickerpatti Village, Periyakulam Taluk, Theni District. At the time of receipt of the notice, the petitioners will be entitled to seek for a personal inspection of the property by the Special Deputy Collector or such other authority as the Special Deputy Collector may designate for inspection of the same.

9. The writ petition is ordered in the above terms. The Special Deputy Collector shall issue notice to the writ petitioners, granting them four (4) weeks time to place their objections to the Form-II, notice in addition to the objections

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previously submitted by the deceased Kesavan. As the matter has been pending from the year 2019, the entire exercise must be completed within a period of eight (8) weeks from the date of first hearing after remand. There shall be no order as to costs.

26.03.2025

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

To

1.The Deputy Collector (Stamp),
Deputy Collector (Stamp) Office,
Madurai.

2.The District Registrar,
Theni District.

3.The Sub Registrar,
Theni Sub Registration Office,
Theni.

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