BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :09.07.2025

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.16642 of 2025
and
W.M.P(MD)No. 12636 of 2025

B.RajeshKannan ...Petitioner

Vs.

The Sub Registrar
Sub Registration Office,
Vathalagundu,
Dindigul. ... Respondent

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 pertaining to the notice dated Nil in D. No.3789/22 on the file of the respondent and quash the same as arbitrary and illegal and consequently to direct the respondent to remove the entry made in the encumbrance register within a time frame stipulated by this Court.

For Petitioner : Mr.S.Venkatesh

For Respondent :Mr.D.Sasi Kumar
Additional Government Pleader

ORDER

This writ petition is filed for the issuance of a *Writ of Certiorarified Mandamus,* to quash the impugned notice dated *NIL* in D. No.3789/22 on the file of the respondent and quash the same as arbitrary and illegal on the file of the respondent and consequently direct the respondent to remove the entry made in the encumbrance register within a time frame stipulated by this Court.

2. The learned counsel appearing for the petitioner submitted that the petitioner had registered a sale deed and the said document was also released. Subsequently, the respondent issued the impugned notice dated *NIL* in D. No.3789/22 based on an audit objection.

3. The contention of the petitioner is that the respondent cannot proceed to recover the deficit stamp duty merely based on an audit objection. In support of this contention, the petitioner relied on the order passed by the learned Single Judge of this Court *in W.P.(MD) No. 21079 of 2018* dated *10.09.2024,* wherein it was held that the respondent cannot directly demand deficit stamp duty. This Court is also on the same opinion that based on the audit objection the respondent cannot directly collect the deficit stamp duty. The respondent ought to invoke Section 47A of the Indian Stamp Act, 1899, issue notice, call for objections, then ought to consider the objections and pass order. In the present case notice was issued directly demanding the deficit stamp duty which was pointed out in the audit objection. The respondent cannot directly collect the deficit stamp duty without initiating appropriate proceedings under Section 47A of the Indian Stamp Act, 1899. Further the impugned notice is violation of the principles of natural justice. Furthermore, it is seen that the District Registrar is the appropriate authority to consider the issue. Hence the impugned notice issued by the Sub Registrar is without jurisdiction. Therefore, the impugned notice is liable to be quashed. Accordingly, the impugned notice dated *NIL* in D. No.3789/22 issued by the respondent is hereby quashed.

4. Therefore, the District Registrar shall consider the case afresh after considering the relevant documents. If he is coming to the conclusion that the deficit stamp duty is payable by the petitioner, he shall initiate appropriate proceedings in accordance with law.

5. With the above observations, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

09.07.2025

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

KSA

To:

The Sub Registrar
Sub Registration Office,
Vathalagundu,
Dindigul.

S.SRIMATHY, J.

KSA

ORDER MADE IN
W.P(MD)No.16642 of 2025

DATED :09.07.2025