BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2025

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD).No.16229 of 2025

P.Meenakshi ... Petitioner

-vs-

The Sub Registrar,
Melakarur,
Karur. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari to call for the records relating to the impugned order of the respondent in Audit No.R20-061/21-22(para 4/IIB) dated 18.03.2025 and quash the same.

For Petitioner	: Mr.H.Arumugam
For Respondents	: Mr.S.Saji Bino Special Government Pleader

ORDER

The present writ petition is filed for Certiorari to call for the records relating to the impugned order of the respondent in Audit No.R20-061/21-22(para 4/IIB) dated 18.03.2025 and quash the same.

2. Through the impugned order, the respondent has directed the petitioner to pay the Additional Stamp Duty to the tune of Rs.1,68,950/-. The petitioner has registered the partition deed as early as on 10.07.2020. The primary contention of the petitioner is the said impugned order is beyond the period of limitation. The document was registered on 10.07.2020, then the respondent is entitled to recover Additional Stamp Duty within a period of three (3) years i.e., on or before 09.07.2023. No notice was issued to the petitioner prior to 09.07.2023. The present impugned order dated 18.03.2025 is based on the audit objection. Therefore, the respondents cannot direct the petitioner to remit the amount beyond the period of limitation.

3. The learned Special Government Pleader appearing for the respondents would submit that the audit objection was issued in the year 2022 itself. Therefore, the same is within the period of limitation.

4. This Court is of the considered opinion the audit objection cannot be cited for calculating the limitation. It ought to be from the date of registration. The District Registrar ought to have issued notice under Section 33A within three years from the date of registration. But the respondents has issued the notice beyond the period of limitation.

The learned counsel appearing for the petitioner relied upon the judgment of this Court rendered in the case of **The Chief Controlling Revenue Authority and Inspector General of Registration and Others** vs. **Hiranandani Township Private Limited Now Hiranandani Realtors Private Limited** reported in 2024-1-L.W.819. Relevant portion of the said judgment reads as under:-

> *"12. The authority and power to conduct an enquiry under Section 33-A is circumscribed by two provisos. Second proviso to Section 33-A provides that no such enquiry shall be commenced after the expiry of three years from the date of registration of the instrument. Second proviso is couched in negative language, thereby, putting an embargo on the right of the authority to proceed under Sub-section (1) of Section 33A, after the expiry of three years from the date of registration of the instrument.*
>
> *13. A mode of showing a clear intention that the provision enacted is mandatory is by clothing the command in a negative form. Prohibitive or negative words can never be directory. The negative words are prohibitory and are ordinarily used as a legislative device to make a provision imperative."*

5. As held supra, in the present case notice is issued in the year 2025 based on the audit objection dated 18.03.2025, hence it is hopelessly beyond limitation and the impugned order is liable to be quashed.

6. Further, the present impugned order was issued by the Sub Registrar but the appropriate authority is District Registrar. Sub Registrar is not having powers to issue the same. Therefore, on jurisdiction question also the impugned order ought to be quashed. Accordingly, impugned order dated 18.03.2025 is liable to be quashed.

7. With these observations, the writ petition stands allowed. No costs.

09.07.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm

To

The Sub Registrar,
Melakarur,
Karur.

S.SRIMATHY, J.

rgm

W.P(MD).No.16229 of 2025

09.07.2025