BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A.(MD)Nos.7 and 8 of 2024
and
C.M.P.(MD)Nos.24, 25 and 204 of 2024

W.A.(MD)No.7 of 2024:-

1. Inspector General of Registration,
   Mandaveli,
   Chennai - 600 028.

2. The Deputy Inspector General of Registration
   Office of Deputy Inspector General of Registration,
   Thanjavur.

3. The District Registrar (Admin)
   Pattukottai,
   Thanjavur District. ... Appellants

Vs.

R.Chithiresan ... Respondent

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD)No.17064 of 2017 dated 27.09.2022 on the file of this Court.

For Appellants : Mr.Veerakathiravan,
Addl. Advocate General,
Assisted by Mr.D.Sasikumar,
Addl. Government Pleader.

For Respondent : Mr.K.Muthu Ganesa Pandian

W.A.(MD)No.8 of 2024:-

1. The Secretary to Government,
   Department of Commercial tax and Registration,
   Chennai.

2. Inspector General of Registration,
   Mandaveli,
   Chennai - 600 028.

3. The Deputy Inspector General of Registration
   Office of Deputy Inspector General of Registration,
   Thanjavur.

4. The District Registrar (Admin)
   Pattukottai,
   Thanjavur District. ... Appellants

Vs.

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Addl. Advocate General,
Assisted by Mr.D.Sasikumar,
Addl. Government Pleader.

For Respondent : Mr.K.Muthu Ganesa Pandian

COMMON JUDGMENT
(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.The department filed these writ appeals questioning the common order dated 27.09.2022 passed by the learned Single Judge allowing W.P.(MD)Nos.17064 and 17065 of 2017 filed by the respondent herein.

3.The respondent herein was working as Sub Registrar, Theni. He is alleged to have improperly classified the documents as settlement deeds. As a result, there was payment of deficit stamp-duty. The cause of action arose in the year 2014. According to the department, it came to their light only much later when an audit objection was raised. The writ petitioner reached the age of superannuation on 30.06.2017. On 16.06.2017, charge memo was issued. On 30.06.2017, he was placed under suspension and retained in service. Challenging the order of the suspension as well as the charge memo, the respondent herein filed the aforesaid writ petitions. The learned Single Judge undertook a detailed factual analysis and held that the department was not justified in issuing the charge memo or suspending him. In that view of the matter, both the writ petitions came to be allowed.

4.The learned counsel for the writ petitioner highlighted some of the subsequent developments. He pointed out that the executants of the documents filed W.P.(MD)Nos.6338 and 6573 of 2019 and one of us (GRSJ) allowed the writ petitions holding that the documents were rightly classified as settlement deeds and that the maximum stamp-duty would only be Rs.25,000/-. Aggrieved by same, the department filed W.A.(MD)Nos.613 and 614 of 2020 and the writ appeals were partly allowed and the matter was remanded. Post remand, a learned Single Judge of this Court once again allowed the writ petition on 16.08.2024.

5.No doubt, these subsequent developments immensely reinforce the defence of the delinquent. But then, quashing of the charge memo cannot be validated in the light of the subsequent developments. The Writ Court ought not to have undertaken any factual analysis in the first instance. The delinquent ought to have been relegated to face the enquiry.The learned Additional Advocate General states that subject to cooperation to be extended by the writ petitioner, the enquiry shall be concluded within a period of three months from the date of receipt of a copy of this order.

6.At this juncture, we have to necessarily make a few observations. The department has proceeded on the premise that the act of the delinquent has led to a revenue loss. We fail to understand as to how the government can suffer any loss at all. It is well settled that liability in such cases will run with the land. Short-fall in the payment of stamp-duty can always be recovered by proceeding against the land in question. In our view the proper charge should be with regard to the alleged recklessness in classifying the documents and short-collection of stamp duty.

7.We also endorse the contention of the learned Additional Advocate General that even though the function carried out by the writ petitioner partakes the character of a *quasi judicial* function, still if there was recklessness in the discharge of the same, that would certainly amount to misconduct. The Hon'ble Supreme Court in the decision reported in ***(1993) 2 SCC 56 (Union of India Vs. K.K.Dhawan)*** carved out the following situations where the government is not precluded from taking disciplinary actions for violation of the Code of Conduct: -

> *"(i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty;*
>
> *(ii)**If there is prima facie material to show recklessness** or misconduct in the discharge of his duty;*
>
> *(iii) if he has acted in a manner which is unbecoming of a Government servant;*
>
> *(iv) if he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;*
>
> *(v) if he had acted in order to unduly favour a party;*
>
> *(vi) if he had been actuated by corrupt motive however, small the bribe may be because Lord Coke said long ago "though the bribe may be small, yet the fault is great."*

8.We are satisfied that the case on hand will prima facie fall within the parameters laid down in ***K.K.Dhawan (supra)***. Therefore, issuance of charge memo cannot be held to be without jurisdiction. In this view of the matter, the order of the learned Single Judge is set aside. With the aforesaid direction to the department as well as the government to conclude the disciplinary proceedings within a period of three months from the date of receipt of a copy of this order, these writ appeals are allowed. All the defences of the writ petitioner are left open. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.S. J.,) & (K.R.S. J.,)
25.07.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias/SKM
To:
1.The Secretary to Government,
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G.R.SWAMINATHAN, J.
and
K.RAJASEKAR, J.

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