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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.22849 of 2023
and
WMP(MD)Nos.19082 & 19084 of 2023

M/s.Surabi Foundation,
Represented by its Managing Trustee,
K.Palanisamy,
S/o Kuppana Pillai,
D.No.40/3, Spencer Compound,
Near Bus Stand,
Dindigul 624 003. .. Petitioners

Vs.

1. The Inspector General of Registration,
   Tamil Nadu, Mylapore,
   Chennai - 600 028.

2. The District Registrar (Accounts),
   Dindigul District,
   Dindigul.

3. The Sub Registrar,
   Athoor,
   Dindigul District. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Ceritiorarified Mandamus, to call for the records pertaining to the impugned notice in Notice No.01/2020 dated 26.06.2023 and consequent impugned notice in Notice No.2/2020 dated 02.08.2023 in so far it relates to document No.587/2018 dated 10.05.2018 on the file of 3rd respondent

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and to quash the same as illegal and consequently, to direct the 3rd respondent to remove the endorsement made in respect of sale deed in document No.587/2018 dated 10.05.2018 within a stipulated time limit as fix by this Court.

For Petitioner : Mr.S.Sarvagan Prabhu

For Respondents : Mr.S.Kameshwaran
Government Advocate

ORDER

This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, to quash the impugned notice in Notice No. 01/2020 dated 26.06.2023 and consequent impugned notice in notice No.2/2020 dated 02.08.2023 in so far it relates to document No.587/2018 dated 10.05.2018 on the file of 3rd respondent and consequently, to direct the 3rd respondent to remove the endorsement made in respect of sale deed in document No.587/2018 dated 10.05.2018 within a stipulated time limit as fix by this Court.

2.The petitioner is a Trust represented by the Managing Trustee. On 10.05.2018, the Trust purchased lands situated in Survey Nos.493/1 and 493/2 through registered sale deed Doc.No.587/2018 for a valid sale consideration from Crescent Trust, Madurai. On the same day, a lease deed was executed between the petitioner Trust and the said Crescent Trust for the super structures for a period of 99 years. The reason for taking such lease is that the Crescent Trust was running

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a Polytechnic College in the name of Kapi Polytechnic College. Therefore, in order to continue the college administration by the petitioner Trust, the valuation was fixed by following the guidelines issued by the respondent department in the year 2018. In such circumstances, the 3rd respondent has issued the impugned notice No.1 of 2020 dated 26.06.2023 stating that the 2nd respondent vide proceedings in Na.Ka.No.92/Thape/2023, dated 07.06.2023, passed an order to pay the insufficient stamp duty for the sale deed dated 10.05.2018. Again on 02.08.2023, the 3rd respondent issued the impugned notice with a same reason as issued in the impugned notice dated 26.06.2023.

3.The contention of the petitioner is that the impugned notices were issued after a period of five years which is violation of Sections 37A and 47A of the Indian Stamp Act. The further contention of the petitioner is even if the respondent department ought to initiate action for recovery of insufficient stamp duty, the prescribed period of limitation is only 3 years and the period starts from the date of registration. Moreover, the said impugned notices are directing the petitioner to pay the insufficient stamp duty without conducting enquiry. Hence, the same is violating the principles of natural justice.

4.The 3rd respondent has filed a counter affidavit stating that the writ petition is not maintainable, since the petitioner is having alternative remedy of

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appeal. The further contention of the 3rd respondent is that the document has prescribed the nature of the property as agriculture land and on that basis alone stamp duty was collected from the petitioner. However, the internal auditing conducted by the 2nd respondent for the year 2018 has pointed out that there is an existing building available at the time of registration and the petitioner has failed to state the said fact and he also failed to state that it is not used for agriculture purpose. Therefore, the said property ought to be treated as plot and the stamp duty ought to paid on the basis of actual valuation. Hence, the petitioner is liable to pay the insufficient stamp duty. Further, the writ petitioner did not implead the present Trust as a party who is a necessary party. The deficit stamp duty was found out during the course of auditing. Hence, the petitioner was directed to pay the same and if not paid, an entry would be made in the encumbrance certificate. Subsequently, an entry was also made in the encumbrance. Hence, the 3rd respondent prayed to dismiss the writ petition.

5.After hearing the rival submissions, this Court had given its anxious consideration. The primary contention of the petitioner is that as per Section 33A(1) of Indian Stamp Act no enquiry shall be conducted after the expiry of 3 years. Hence, the impugned notices issued by the 3rd respondent are barred by limitation and the relevant section is extracted hereunder:

"Section 33A(1) of the Indian Stamp Act, 1899, allows for the

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recovery of deficit stamp duty as an arrear of land revenue if a registered instrument is found to have paid insufficient or incorrect stamp duty. The process requires a certificate from the Registrar of the district, with a mandatory inquiry and an opportunity for the person liable to be heard, but such an inquiry cannot begin more than three years after the instrument's registration date."

6.In the present case, the document was registered on 10.05.2018 and the present notice were issued on 26.06.2023 and 02.08.2023. The period of limitation prescribed under the Section 33A(1)had lapsed in the year 2021 itself. Further, the period of limitation ought to be calculated from the date of registration and not from the date of audit objection. Therefore, the present notices are beyond the prescribed limitation period. Hence, the impugned notices are liable to be quashed.

7.The contention of the respondents is that the petitioner is having an alternative remedy of appeal. When there is violation of principles of natural justice and when the issue of jurisdiction and limitation are raised, writ petition is maintainable. Therefore, the contention of the respondents is rejected. Even though these are only notices, this Court is inclined to quash the notices for the reasons stated supra. Accordingly, the impugned notices are quashed. Consequently, the 3rd respondent is directed to remove the endorsement made in respect of sale deed in document No.587/2018 dated 10.05.2018.

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8.With the above observations, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

08.08.2025

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

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To

1. The Inspector General of Registration,
   Tamil Nadu, Mylapore,
   Chennai - 600 028.

2. The District Registrar (Accounts),
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   Dindigul.

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S.SRIMATHY, J.

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ORDER MADE IN
W.P(MD)No.22849 of 2023

DATED : 08.08.2025

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