



W.P.(MD) No.14138 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.14138 of 2017
and
W.M.P.(MD) No.11048 of 2017**

P.Palsamy

... Petitioner

/vs./

1.The Special Duty Director (Stamps),
Virudhunagar District Collectorate Complex,
Virudhunagar District.

2.The Sub Registrar,
Sub Registrar Office,
Srivilliputhur 626 125.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records of the 1st Respondent in Tapa.No.S.1/816/00 dated 19.07.2017 and quash the same.

For Petitioner : Mr.M.Ashokkumar

For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader



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ORDER

The challenge in the writ petition is to the notice issued by the first respondent only insofar as it relates to the Clause that if the petitioner fails to make the payment, the proceedings will be initiated against the petitioner's movable or immovable assets.

2. It is the case of the petitioner that under Section 47A(4), if the dues are not paid on a proceeding that has been initiated under Section 47A(1), then the said dues will be a charge on the property and the respondents can only proceed against the property and not otherwise. Therefore, he would seek interference with the orders impugned only with regard to that aspect.

3. On the contrary, Mr.D.Sadiq Raja, learned Additional Government Pleader appearing on behalf of the respondents would submit that the power is also vested with the respondents for invoking the provisions of Section 48 of the Indian Stamp Act, 1899 and therefore, the impugned order cannot be said to be bad.



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4. I have considered the rival submissions made by the learned counsel on either side.

5. Admittedly, the document bearing Doc.No.1697 of 2000 was registered in favour of the claimant and the same had been referred to the first respondent under Section 47A(1) and after enquiry, it was found that there is a deficit stamp duty and the petitioner was called upon to pay the deficit stamp duty along with registration charges. Since the petitioner had not made the payment, the present impugned order had been passed.

6. Section 47A(4) of the Act would envisage that if the dues as determined by the Special Deputy Collector (Stamps) is not paid, then such dues will form a charge over the property. If the charge is created over the property, then the recovery of such dues would have to be made only from the property and not otherwise. However, under the impugned order, the first respondent indicated that the petitioner's personal property would be proceeded with. Therefore, the same is in-contravention to Section 47A(4) of the Indian Stamp Act, 1899.



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7. In such view of the matter, the impugned order insofar as it indicates that the auction would be initiated against the petitioner's personal assets alone is set aside and in fine, the Writ Petition stands partly allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No

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Internet : Yes / No

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To

- 1.The Special Duty Director (Stamps),
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K.KUMARESH BABU, J.

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