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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2026

CORAM:

THE HONOURABLE **DR.JUSTICE G. JAYACHANDRAN**
AND
THE HONOURABLE **MR.JUSTICE K.K.RAMAKRISHNAN**

W.A.(MD)No.500 of 2020
and
C.M.P.(MD)No.3553 of 2020
and
Cont.P.(MD)No.2075 of 2017

W.A.(MD)No.500 of 2020:

1.The Special Deputy Collector (Stamps),
Kokkirakulam,
Tirunelveli District.

2.The Sub Registrar,
Sub Registrar Office,
Melapalayam,
Tirunelveli District. ... Appellants

Vs.

P.S.Abdul Rahuman ... Respondent

PRAYER:- Writ Appeal – filed under Clause 15 of the Letters Patent, to set aside the order made in W.P.(MD)No.9441 of 2017 dated 25.05.2017 on the file of this Court.

For Appellants : Mr.R.Baskaran
Additional Advocate General
assisted by Mr.A.Kannan

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Additional Government Pleader
For Respondent : Mr.H.Arumugam

CONT P(MD)No.2075 of 2017:

P.S.Abdul Rahuman ... Petitioner

Vs.

S.Shenbavalli
The Special Deputy Collector (Stamps),
Kokkirakulam, Tirunelveli District. ... Respondent

PRAYER:- Contempt Petition – filed under Section 11 of the Contempt of Courts Act, to punish the respondent herein under the Contempt of Court Act for willful disobedience of order of this Court dated 25.05.2017 passed in W.P.(MD)No.9441 of 2017.

For Petitioner : Mr.H.Arumugam
For Respondent : Mr.R.Baskaran
Additional Advocate General
assisted by Mr.A.Kannan
Additional Government Pleader

COMMON JUDGMENT

(Judgment of the Court was delivered by **DR.G.JAYACHANDRAN, J.)**

The respondent in the writ appeal had purchased a property on 28.04.2016 and presented the sale deed for registration showing the value of the property as Rs.2 lakhs. The document presented before the Sub Registrar, Melapalayam, Tirunelveli District, was assigned with Doc.No.

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2348 of 2016 dated 28.04.2016. However, the document was not released to the respondent in view of the initiation of proceedings under Section 47-(A) (1) of the Indian Stamp Act (hereinafter referred to as 'Act').

2.Contending that the respondent in the writ appeal was not aware of the reason for not releasing the document, he filed writ petition in W.P.(MD)No.9441 of 2017 for the following relief:

> *“To issue writ of mandamus directing the respondents to release the sale deed registered before the second respondent in Doc.No. 2348 of 2016 registered on 28.04.2016 to the petitioner within the time fixed by this Court.”*

3.The learned Single Judge referring the judgment of this Court in W.P.No.11734 of 2010 has observed that on many occasions, the Court has directed to release the document after registration is over, even the matter is referred under Section 47-A of the Act on condition that the property will not be alienated and there will be a charge over the property in respect of the tax payable. The writ petition thus, with the said reason, was allowed with a direction to the Special Deputy Collector (Stamps) to issue notice calling upon the writ petitioner to appear before him and on such appearance, after following due formalities, the document in

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question namely Doc.No.2348/2016 dated 28.04.2016 shall be released with all the conditions mentioned in para 4 of the judgment in W.P.No. 11734 of 2010 dated 16.06.2011 within a period of two weeks from the date of receipt of a copy of that order.

4.The present appeal is preferred by the State stating that a conjoint reading of Section 47-A (1) of the Act with Rule 7(4) of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, which provides that the Collector shall after collecting the deficit stamp duty and interest under Section 47-A of the Act, give certificate by endorsement on the instrument, will substantiate the legal position that the original document has to be referred to the Collector for action under Section 74A(1)) of the Act. If the Registering Officer has reason to believe that the market value of the property has not been properly set forth in the instrument, he may after registering the instrument refer the same to the Collector for determination of market value of the said property and the proper duty payable thereon. According to the learned Additional Advocate General, the Act envisages retaining a document presented for registration, if the issue regarding the valuation is pending adjudication.

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5.In this case, the first appellant has considered the reference under Section 47-A of the Act and had passed final order on 31.03.2018 fixing a sum of Rs.12,41,767/- as additional Stamp duty and directed the writ petitioner to pay the amount within a period of ten days and get back the document. In the said order, the writ petitioner also had been informed that if he was to prefer any appeal, he can do so within a period of 60 days from the date of receipt of the order before the Inspector General of Registration.

6.Therefore, the learned Additional Advocate General contended that the learned Single Judge had not considered the judgment rendered by the Division bench of this Court in ***Special Deputy Tahsildar (Stamps) and another vs. M.Alfred*** [2017 SCC online Mad 30725], wherein the Division Bench of this Court has categorically held that after reference is made to the authorities under Section 47-A of the Act, the question of returning the instrument without collecting differential stamp duty after adjudication, will not arise. In this case, since the adjudication has already been completed and intimated to the writ petitioner, he has to either pay the differential stamp duty or ought to

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have preferred an appeal within the time stipulated under the Act. Having chosen not to exercise either of the two options, the writ petitioner cannot seek for return of the document without paying differential stamp duty demanded by the proceedings of the first appellant dated 31.03.2018.

7.The learned counsel for the respondent /writ petitioner submitted that the respondent was unaware of the action taken by the Sub Registrar invoking Section 47-A of the Act. By the time the respondent received notice for enquiry, the date fixed for enquiry was already over. His representation seeking extension of time to participate in the enquiry was not considered and the alleged order of fixing the additional stamp duty and demand of stamp duty vide proceedings dated 31.03.2018 was not served on him.

8.Heard the learned counsel appearing on either side and records were perused.

9.We are constrained to refer the Full Bench judgment of this Court rendered in ***G.Karmegam and others vs. Joint Sub Registrar***

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[2007 (5) CTC 737], wherein the issue of detaining a document pending adjudication under Section 47-A (1) of the Act, has been discussed at length and guidelines were issued. Since the said decision being the decision of the Full Bench, it binds both on the Division Bench and Single Bench.

10.We find that the Division Bench of this Court while dealing W.A.(MD)No.1176 of 2017 had referred the Full Bench judgment rendered in *Karmegam's* case, however, omitted to apply the principal laid down in the said judgment in letter and spirit.

11.The Full Bench of this Court, while discussing the impact of Section 47-A of the Act, taking into consideration the intention of the legislature, harshness and injustice likely to occur to the public, who have presented the document and brought under the scanner of 47-A of the Act, had thought fit that any document presented for registration and suspected for undervaluation has to be scrutinized within the reasonable time by the authorities and the authorities should not be put to perpetual hardship and uncertainty.

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12.While applying the dictum of the Full Bench in the case in hand, it appears that the document presented for registration on 28.04.2016, was not released to the writ petitioner citing the reference under Section 47-A of the Act. This has prompted the writ petitioner to approach this Court to seek remedy. The learned Single Judge has also considered the plight of the respondent, had allowed the petition on 25.05.2017. Even after the order of the learned Single Judge with a direction to follow the procedure as envisaged in W.P.No.11734 of 2010, has taken more than 10 months time to pass adjudicatory order. For easy reference, directions in W.P.No.11734 of 2010 referred by the learned Single Judge, read as below:

> *"9.As far as this contention is concerned, following the earlier order of this Court made in W.P.(MD).No.2464 of 2008, it could be done so with the following conditions:*
>
> *"(i) The first respondent shall release the sale deed registered as document No.1279/02 within a period of two weeks from the date of receipt of a copy of this order with an endorsement stating that the reference under Section 47(A)(1) is pending.*
>
> *(ii) The first respondent shall also make necessary entries in the registers showing the pendency of the proceedings under Section 47(A)(1) so as to reflect the same in the encumbrance certificates in the interest of purchasers.*

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(iii) Pending the final order to be passed under Section 47(A)(1), there shall be a charge over the property in favour of the Government as per Section 47(A)(4) of the Act.

(iv) After completion of the entire proceedings under Section 47(A) including the appellate remedy available under the same, the petitioners shall pay the amount which is arrived at ultimately and after such payment on production of the original sale deed, the first respondent shall make necessary endorsements stating that the entire amount due as per Section 47A has been paid and there is no amount due under the Indian Stamps Act."

13.Obviously, the above said process is not followed in this case. In such circumstances, we find no merits in the writ appeal preferred by the State. However, taking into consideration the subsequent development, namely the adjudicatory order passed by the first appellant vide proceedings dated 31.03.2018, we are of the view that the respondent, in order to have the benefit of getting back his document, shall pay the differential stamp duty as demanded under the adjudicatory order dated 31.03.2018 under protest. He is also permitted to prefer the appeal against the said order within a period of 30 days from the date of receipt of a copy of this order. In case he succeeds, he can get back the differential amount. The Inspector General of Registration shall dispose the appeal, if any filed, within a period of 30 days from the date of filing of an appeal.

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

15.In view of the order passed in the writ appeal in W.A. (MD)No.500 of 2020, we are of the view that the contempt petition need not be proceeded further. Hence, the contempt petition in Cont.P. (MD)No.2075 of 2017 is closed.

[G.J., J.] & [K.K.R.K., J.]
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