

In the High Court of Judicature at Madras

Dated: 28.02.2007

Coram:

The Honourable Mr.Justice P.SATHASIVAM  
and  
The Honourable Mr.Justice N. PAUL VASANTHAKUMAR

Writ Appeal No.1677 of 2003

and WAMP.No.4810 of 2003

- 1.The Sub Registrar,  
Santhome High Road,  
Chennai.
  - 2.The Special Deputy Collector(Stamps),  
Office of the District Collectr,  
5<sup>th</sup> floor, M.Singaravelan Maligai,  
Rajaji Salai, Chennai-1.
  - 3.The Chief Controlling Revenue Authority,  
Santhome High Road, Chennai. .. Appellants
- Vs
- J.Sekar .. Respondent

Writ Appeal filed under Clause 15 of the Letters Patent against the judgment dated 28.11.2002 made in W.P.No.13368 of 2002. Presented to this court under Article 226 of the constitution of India to issue a writ of certiorarified mandamus calling for the records of the first Respondent summarily determining the value of the property pursuant to his notice Ref.No.360/2001, dated 28.8.2001 as also the order Ref.No.49266/2001 dated 1.2.02, passed by the 3rd Respondent rejecting the petitioner's Appeal dated 18.10.2001, quash the same and direct the first and 2nd Respondents to return the sale deed dated 3.7.2001 conveying the property viz, all that piece and parcel of house, ground and premises measuring 2400 sq.ft or thereabouts bearing New Door No.10 old No.29A Dr.Radhakrishnan Salai, 9th Street, Mylopore, Chennai-4. comprised in present Survey No.1070/1, 1071/1, 1071/52, Mylapore village Block No.22, situated in Mylapore Taluk, within the Registration District of mylapore and registration District of chennai south to and in favour of the Petitioner, registered as Doc.No.1620 of 2001 to the Petitioner.

For Appellants	: Mr.P.Subramanian, Government Advocate
For Respondent	: Mr.N.L.Rajah for R1

## JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM,J.)

The above writ appeal is directed against the order of the learned single Judge dated 28.11.2002 made in W.P.No.13368 of 2002, in and

by which, the learned Judge has directed the respondents therein to extend the "Samadhan Scheme" issued under G.O.Ms.No.117, Commercial Taxes Department dated 26.09.2002 and the benefits granted to the petitioner thereunder. In the same order, the learned single Judge has observed that the provisional order passed by the second respondent therein indicating the difference in stamp duty shall be the basis for accepting the stamp duty payable by the petitioner.

2. Heard the learned Government Advocate for the appellants as well as the learned counsel for the respondent.

3. The learned Government Advocate submitted that on the date when the learned single Judge has passed the order and disposed of the writ petition extending the benefit of the "Samadhan Scheme", the provisional order under Form -II had been passed on 05.03.2002 by the second respondent. According to him, the said order has not been challenged by the writ petitioner-respondent herein. In such circumstances, it is contended by the learned Government Advocate that the learned single Judge has committed an error in extending the benefits of the "Samadhan Scheme" to the petitioner.

4. We have perused the order passed in Form-I dated 28.01.2001 and Form -II dated 05.03.2002 as well as various conditions available in G.O.Ms.No.117, Commercial Taxes Department dated 26.09.2002 regarding "Samadhan Scheme". On a perusal of those materials as well as the order of the learned single Judge, we are unable to accept the contention raised by the learned Government Advocate. It is not in dispute that as per the said Government order, the Scheme was notified with effect from 01.10.2002 and as per the said notification, the remission as per the Scheme was available for a period of 60 days i.e. upto 30.11.2002. It is not in dispute that the learned single Judge passed the order on 28.11.2002 i.e., within the permissible period. Though it was pointed out that the provisional order was passed on 05.03.2002, there is no definite information as to the fact that when the said order was communicated to the writ petitioner-respondent herein. It is also relevant to point out that it is not the case of the appellants that recovery proceedings have been initiated under Revenue Recovery Act on the date when the learned single Judge has passed the order. Though the learned counsel appearing for the respondent-writ petitioner submitted that even on merits, he has other points for quashing the impugned proceedings, inasmuch as we are in agreement with the conclusion arrived at by the learned single Judge, there is no need to refer the same in this order.

5. In the light of what is stated above, we are unable to accept the stand taken by the appellants. On the other hand, we are in entire  
<https://hcservices.ecourts.gov.in/hcservices/>

agreement with the conclusion arrived at by the learned single Judge. Consequently, the writ appeal fails and the same is dismissed. No costs. Consequently, WAMP No.4810 of 2003 is also dismissed.

6. It is represented by the learned counsel appearing for the respondent herein that in order to get back the original document, the writ petitioner/respondent herein has paid the entire stamp duty. In view of the present order, confirming the order of the learned single Judge and dismissing the writ appeal, the respondent herein-writ petitioner is entitled for refund of the difference of stamp duty viz., 1,29,432/- (Rupees one lakh twenty nine thousand four hundred and thirty two only). Accordingly, direction is issued to the first appellant in this appeal to return the said amount forthwith to the respondent herein/writ petitioner.

raa

Sd/-  
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Sub Registrar,  
Santhome High Road,  
Chennai.

2.The Special Deputy Collector (Stamps),  
Office of the District Collectr,  
5<sup>th</sup> floor, M.Singaravelan Maligai,  
Rajaji Salai, Chennai-1.

3.The Chief Controlling Revenue Authority,  
Santhome High Road, Chennai.

+1 cc to Mr.B.Harikrishnan, Advocate Sr.No.12937.

+1 cc to the Government Pleader, Sr.No.12204.

MM(CO)  
dcp/13.3.07

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