IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2015

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.12075 of 2014
and
M.P.No.1 of 2014

N.Nallammal .. Petitioner

vs

1. The Special Deputy Collector (Stamps)
Salem, Namakkal, Dharmapuri District
Salem Collectorate, Salem.

3. The Joint Sub Registrar-II, Namakkal. .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondents to return the sale deed registered as Document No.121 of 2005 on the file of the second respondent to the petitioner without demanding any additional stamp duty under Section 47-A of the Act, within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Mutharasu

For Respondents : Mr.D.Suriya Narayanan
Government Advocate

ORDER

Heard Mr.G.Mutharasu, learned counsel for the petitioner and Mr.D.Suriya Narayanan, learned Government Advocate appearing on behalf of the respondents.

2. The petitioner seeks for a direction to the respondents to return the sale deed registered as Document No.121 of 2005 on the file of the third respondent to the petitioner without demanding any additional stamp duty under Section 47-A of the Act, within a time frame to be fixed by this Court.

3. According to the petitioner, he had purchased a property, which is a housing site and the valuation done by the petitioner was not accepted by the third respondent and hence proceedings were

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initiated under Section 47-A of the Indian Stamp Act and Form 1 Notice was also issued by the first respondent demanding additional stamp duty. It is the further contention of the petitioner that he has also given a reply to the said notice as early as 14.04.2005, however, till date no action was taken by the respondents. Hence, the present writ petition.

4. In support of his contention, the learned counsel for the petitioner also relied on the decision of this Court reported in 2008(3) CTC 614 [Tata Coffee Limited, Bangalore vs. The State of Tamil Nadu by the Secretary to Government, Commercial Taxes & Registration, Government of Tamil Nadu, Fort St.George, Chennai-9 and three others], wherein this Court in identical circumstances has directed the authorities to release the documents, without prejudice to the proceedings, which is initiated under Section 47A of the Act, subject to making necessary endorsement in the said document.

5. It is settled legal position that the respondents, viz., the registering authority are not entitled to retain any document solely on the ground that there is a dispute pending as regards the valuation of the document and the stamp duty to be paid.

6. Following the aforesaid decision, this writ petition is disposed of, directing the respondents to release the documents pertaining to the petitioner registered in Document No.121 of 2005 by making an endorsement in the form of affixing seal indicating that reference under Section 47-A with respect to under valuation and assessment of stamp duty payable is pending before the second respondent and thereafter issue notice to the petitioner to participate in the enquiry and pass a reasoned order on merits and in accordance with law after following the due process of law under the Indian Stamp Act. It is made clear that the documents shall be returned to the petitioner with necessary endorsement as directed above. No costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

1. The Special Deputy Collector (Stamps)
   Salem, Namakkal, Dharmapuri District
   Salem Collectorate, Salem.

2. The Joint Sub Registrar-II, Namakkal.

1 cc to Mr.G. Mutharasu, Advocate, Sr. 4044
1 cc to Government pleader, Sr. 4321

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