

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.22953 of 2014

R.Vijayalakshmi

... Petitioner

vs.

The Sub-Registrar
Gummudipondy
Thiruvallur District

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the respondent to register the document dated 04.02.2014 kept pending by the respondent herein as Document No.P16/2014 to issue regular number and register the same.

For Petitioner : Mr.R.Muralidharan
For Respondent : Mr.S.Gunasekaran
Govt. Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondent and perused the materials available on record.

2. With the consent of both parties, the writ petition is taken up for hearing at this stage.

3. The petitioner seeks for issuance of Writ of Mandamus to direct the respondent to register the document dated 04.02.2014 pending on his file as Document No.P16/2014. However, till date the document has not been registered or released. The petitioner was orally informed that proceedings are to be initiated under Section 47-A of the Registration Act and that is the reason for retaining the application. The question is as to when the matter is pending reference under Section 47A of the Act, whether the respondent could retain the document.

4. The issue involved in this writ petition is no longer res integra and has been decided by this court in several judgments and it would be worthwhile for this Court to refer the decision (Sub Registrar, Registration Department Vs. R. Rama) reported in (2008) 1 MLJ 825. An identical issue arose for consideration before this court in W.P.No.8585 of 2010 dated 26.04.2010, wherein, directions were issued to the Sub Registrar to return the sale deed subject to certain conditions and the same is extracted hereunder;

"(i) The Registering Authority while releasing the documents shall make necessary endorsement on the original documents to the effect that the proceedings under Section 47-A of the Act are pending.

(ii) The Registering Authority shall make necessary entries in the register maintained regarding the pendency of 47-A proceedings in respect of the documents subject matter of the registration so as to reflect the same in the Encumbrance Certificate for the benefit of the purchasers.

(iii) Pending final decision in respect of the valuation under section 47-A(i), as per Section 47-A(4) there shall be a charge over the properties in favour of the Government in respect of the unpaid value of the stamp duty.

(iv) After the entire proceedings under section 47-A are completed, on production of the original documents by the petitioner, the Registering Authority shall make necessary endorsement removing the earlier endorsement clearly stating that the entire amount of stamp duty under the documents have been paid in full and return the same.

(v) After such endorsement, the Registering Authority shall make necessary entry of the completion of 47-A proceedings in the register maintained by them so as to reflect the same in the Encumbrance Certificate."

5. In the light of the above, there will be a direction to respondents to return the sale deed bearing Document No.P.16/2014 dated 4.2.2014 within a period of two weeks from the date of receipt of a copy of the order subject to the following conditions.

(i) The Registering Authority while releasing the documents shall make necessary endorsement on the original documents to the effect that the proceedings under Section 47-A of the Act are pending.

(ii) The Registering Authority shall make necessary entries in the register maintained regarding the pendency of 47-A proceedings in respect of the documents subject matter of the registration so as to reflect the same in the Encumbrance Certificate for the benefit of the purchasers.

(iii) Pending final decision in respect of the valuation under section 47-A(i), as per Section 47-A(4) there shall be a charge over the properties in favour of the Government in respect of the unpaid value of the stamp duty.

(iv) After the entire proceedings under section 47-A are completed, on production of the original documents by the petitioner, the Registering Authority shall make necessary endorsement removing the earlier endorsement clearly stating that the entire amount of stamp duty under the documents have been paid in full and return the same.

(v) After such endorsement, the Registering Authority shall make necessary entry of the completion of 47-A proceedings in the register maintained by them so as to reflect the same in the Encumbrance Certificate."

6. Thereafter, it is open to the respondents to issue notice in Form No.I under provisions of Indian Stamps Act and the Rules framed thereunder and ascertain the correct market value of the property, after following due process of law. The petitioner shall cooperate if any such enquiry as and when notice in Form No.I is issued.

7. The Writ Petition is disposed of in the above terms. No costs. Consequently, connected M.P.No.1 of 2015 is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gpa

To

The Sub-Registrar
Gummudipoondy
Thiruvallur District

+ 1 cc to Mr.R. Muralidharan, Advocate SR.9321
+ 1 cc to Government pleader Sr.9445

W.P.No.22953 of 2014

SR(CO)
Eu 06.03.15



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