

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.15961 of 2015

Mrs.C.R.Jayanthi

Petitioner

..

Vs.

1. The Inspector General of Registration,
Rajaji Salai,
Santhome,
Chennai.
 2. Office of the District Revenue Officer (Stamps),
Chennai District Collectorate Office,
5th Floor, M.Singaravelar Building,
32, Rajaji Salai, Chennai - 1.
 3. The Sub Registrar,
Sub Registrar Joint - 1, Kanchipuram,
Kancheepuram District.
- .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 2 and 3 to release the Sale Deed dated 03.09.2012 registered as Doc.No.2685/2012 at the third respondent Sub Registrar Office, to the petitioner.

For Petitioner : Mr.N.Nagusah

For Respondents : Mr.R.Vijayakumar,
Additional Government Pleader

O R D E R

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner claims that she has purchased the Nursing Home Plot comprised in S.No.244/2A measuring 12240 sq. ft forming part of the Approved Layout No.149 A&B/2006 PLATINUM MEGA CITY situated at Konerikuppam Village, Kanchipuram Taluk, Kanchipuram District, by means of a registered Sale Deed dated 03.09.2012 and presented the same before the third respondent for registration and the third respondent had also registered the said Sale Deed as Doc.No.2685/2012 by collecting the registration fees of Rs.24,480/-

at the rate of 1% by means of receipt dated 03.09.2012. The grievance of the petitioner is that though the Sale Deed has been registered, the same has not been returned and though the petitioner has approached the third respondent so many times for return of the Sale Deed, it has not been returned to the petitioner. The petitioner, aggrieved by the act of the third respondent in not returning the registered Sale Deed, came forward to file this writ petition.

3. Mr.N.Nagusah, learned counsel appearing for the petitioner has drawn the attention of this Court to the judgment of this Court reported in 2002 (3) CTC 544 [B.Rajappa and another Vs. The Special Deputy Collector (Stamps)], and would submit that once a document is registered, the concerned Registering Authority has no jurisdiction to retain the same and hence prays for appropriate orders.

4. The Court heard the submissions of Mr.R.Vijayakumar, learned Additional Government Pleader, who accepts notice on behalf of the respondents.

5. This Court, in paragraph No.15 of the above cited judgment, issued certain directions which read as under:-

"15. While appreciating the anxiety expressed on behalf of the State by the learned Advocate General, this Court directs that:-

i) It is open to the Registering Authority to affix a seal, while releasing the original deed or conveyance or any other document indicating that a reference is pending under Section 47-A with respect to under-valuation and assessment of Stamp Duty payable, as and when the proceedings reach finality, the same shall be intimated to the person who is liable to pay stamp duty demanding payment of deficit Stamp Duty payable on the instrument.

ii) The Registrar to make corresponding entries under Sections 54, 55 of The Registration Act, 1908, in the Register of indexes as to pendency of proceedings under Section 47-A.

iii) On completion of adjudication as to the under-valuation by the competent authority as well as appeal or revision, if any, thereof, and depending upon the ultimate decision, the said authorities to recover deficit stamp duty according to law.

iv) Till such proceeding reaches finality and deficit is paid, there will be a charge for the deficit stamp duty, which is the subject matter of transfer or conveyance.

v) On payment of deficit stamp duty, if any payable, the Registrar may once again, on production of the original deed of transfer, make appropriate entry and recording the additional stamp duty paid and release of charge and also make consequential entries in the registers/indexed maintained under Sections 54, 55, etc., of The Registration Act."

6. This Court, in paragraph No.17 of the above cited judgment, further directed the Inspector General of Registration as follows:-

"17. This Court directs that the Inspector General of Registration shall issue a circular setting out the aforesaid directions issued by this Court to all the Registrars in the State and procedure to be followed by drawing their attention to the law laid down by the above pronouncements and that any infraction by any of the Registrars will be viewed seriously."

It is unfortunate in spite of such directions, liberally these kinds of writ petitions are filed in this Court.

7. It is high time that the first respondent shall take note of the judgment and once again to issue a circular strictly in accordance with the above cited judgment and ensure strict compliance.

8. In the result, the Writ Petition is disposed of and the third respondent is directed to release the Sale Deed dated 03.09.2012, after following the terms of the guidelines stipulated in the above cited judgment which have been extracted in the earlier paragraph, within a period of two weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To

1. The Inspector General of Registration,
Rajaji Salai,
Santhome,
Chennai.
2. Office of the District Revenue Officer (Stamps),
Chennai District Collectorate Office,
5th Floor, M.Singaravelar Building,
32, Rajaji Salai, Chennai - 1.

3. The Sub Registrar,
Sub Registrar Joint - 1, Kanchipuram,
Kancheepuram District.

+1 cc to Mr.N.Nagu Sah, Advocate,SR.28052.

Gj (co)

krd 26/6

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