IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.19024 of 2015

M/s.AMR Pharma India Private Limited,
Rep. By its Director Mr.G.Ashok,
Registered Office at A2/13,
Tri Star Residency,
Mogappair Eri Scheme,
Chennai 600 037.

... Petitioner

- Vs -

1.The Special Deputy Collector (Stamps),
Collectorate Office,
Singaravelan Maligai,
Chennai 600 001.

2.The Sub Registrar,
Sub Registrar Office,
Joint-II Chengaelpet,
Chengelpet Taluk,
Kancheepuram District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents to return the Original sale deed dated 19.02.2014 registered as Doc.No.4573/2014 on the file of the 2nd respondent with necessary endorsement of payment of deficit stamp duty on the Deed and consequently complete the enquiry procedure under Section 47(A) of The Indian Stamps Act 1899 expeditiously in the light of judgement of this court in Tata Coffee Limited Vs. State of Tamil Nadu reported in 2008-3 LW 286.

Petitioner : Mr.V.Srinivasan Babu
For Respondents : Mr.RM.Muthukumar, GA

ORDER

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

2. The grievance of the petitioner is that though the original sale deed dated 19.02.2014 was registered as Doc.No.4573/2014 on the file of the 2nd respondent with necessary endorsement with regard to

payment of deficit stamp duty on the said document and consequently directed for an enquiry under Section 47A of The Indian Stamps Act, 1899, the respondent has not chosen to return the original sale deed and hence, he has come forward with this writ petition.

3. The learned counsel for the petitioner drawing attention of this court to a judgement of this court in Tata Coffee Limited Vs. State of Tamil Nadu reported in 2008-3 LW 286 would submit that in the light of the the guidelines issued in the above judgement the respondents are bound to return the documents after making necessary endorsement on the document.

4. This court heard the submissions of Mr.RM.Muthukumar, the learned Government Advocate, who accepts notice for the respondents, as well.

5. It is relevant to extract para 25 of the judgement referred to above which reads as under:-

> "25. In view of the above said discussion, the following principles are culminated:
>
> 1. In the event of the Registering Authority failing to refer any document on the basis that the properties have been undervalued within a reasonable time as per the observation of the Full Bench in paragraph 34 of G. Karmegam v. The Joint Sub-Registrar, Madurai 2007 (5) CTC 737, or not in any event of non-completion of the entire proceedings culminating to the passing of final order by the Collector within a period of five years from the date of presentation of document for registration, the same should be deemed to be lapsed and the Registering Authority or the Collector thereafter has no jurisdiction to either initiate any proceedings afresh or to proceed further and the documents are to be returned forthwith without any endorsement. In W.P. No. 37347 of 2007, the document was presented for registration on 12.04.2002 and the same was registered as document No. 1625/2002 and according to the petitioner, no Form I notice has been received and the petitioner has not received any information regarding provisional order and inasmuch as no enquiry has been conducted for more than five years, the proceedings under Section 47-A get lapsed. Accordingly, WP. No. 33556 to 33582 and 37347 of 2007, which falls under this category stand allowed.
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> 2. In cases where Form I notice are served to the petitioners as seen in W.P. Nos. 34548 to 34550 of 2007, 35159 of 2007, 33957 of 2007, 37384 of 2007, 35384 of 2007, the authorities are entitled to

proceed further by conducting enquiry as per the Act and Rules to pass provisional order and thereafter pass final order as per Rules 6 and 7. However, in the meantime, the Registering Authority shall release the documents to the petitioners concerned with the endorsement in the form of affixing seal indicating that the reference under Section 47-A with respect to undervaluation and assessment of stamp duty payable is pending.

3. In respect of cases where 47-A proceedings are pending as it is stated in W.P. Nos. 25721 of 2007, 35722 of 2007, 37385 to 37387 of 2007, 27901 of 2007, 33848 and 33849 of 2007 and 36359 of 2007, the concerned Registering Authorities are directed to release the documents to the petitioners with an endorsement in the form of affixing seal indicating that reference under Section 47-A with respect to undervaluation and assessment of stamp duty payable is pending.

4. Relating to other cases, wherein final orders are stated to have been passed by the Collector under Section 47-A(2) of the Act, as it is stated in W.P. Nos. 26871 of 2007 and 26658 of 2007, the petitioners are entitled to file further Appeal to the Appellate Authority as per Section 47-A(5) of the Act from the date of service of such orders as per Rule 15 within the time prescribed under the Rules and in the meantime the Registering Authority shall release the documents with an endorsement in the form of affixing seal indicating that reference under Section 47-A with respect to undervaluation and assessment of stamp duty payable is pending.

5. In addition to the above said affixture of seal relating to cases mentioned in Clauses 2, 3 and 4, the concerned Registering Authority shall make corresponding entries in the Register maintained under the Registration Act, 1908, especially with reference to Sections 54 and 55, as to the pendency of Section 47-A proceedings, to be disclosed in the Encumbrance Certificates relating to the said properties.

6. On completion of the entire adjudication in respect of undervaluation by the competent authorities including the Appeal and revision if any, based on the ultimate decision, the authorities are entitled to recover the deficit stamp duty in accordance with the provisions of the Stamp Act.

7. Till such finality is reached and deficit stamp duty is paid in full as enshrined under Section 47-A(4) of the Act, there will be a charge on the properties which are the subject matter of such documents in respect of the amount of deficit stamp duty.

8. On payment of the deficit stamp duty by the party, the Registering Authority, on production of the original deed of transfer shall make appropriate entry regarding the factum of payment of full stamp duty and discharging property from the charge as per Section 47-A(4) of the Act and also make consequential entries in the encumbrance and indexes maintained under Sections 54 and 55 of the Indian Registration Act, 1908."

6. In the light of the above said judgement, the writ petition is disposed of and the 1st respondent is directed to take into consideration the guidelines issued in the judgement cited supra and pass orders as to the return of original sale deed dated 19.02.2014 [registered as Doc.No.4573 of 2014 on the file of the 2nd respondent] to the petitioner in accordance with law as expeditiously as possible not later than two seeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmk
To

1.The Special Deputy Collector (Stamps),
Collectorate Office, Singaravelan
Maligai, Chennai 600 001.
2.The Sub Registrar, Sub Registrar Office,
Joint-II Chengaelpet, Chengelpet
Taluk, Kancheepuram District.

+1cc to Mr.V. Srinivasa, Advocate, S.R.No.32276
+1cc to the Government Pleader, S.R.No.32973

(CO)
EU(/07/2015)

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