

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.19634 of 2015
and M.P.No.1 of 2015

M/s.The Southern Builders Charitable Trust,
"Casa Blanca"
2nd Floor, No.11 (Old No.6)
Casa Major Road, Egmore,
Chennai-600 008.

... Petitioner

Vs.

1.The State of Tamilnadu,
Rep by Inspector General of Registration,
Santhome,
Chennai-600 028.

2.The Sub-Registrar,
Konnur,
Chennai-600 049.

3.The District Revenue Officer (Stamps),
District Collectorate's Office,
M.Singaravelar Maaligai,
Chennai-600 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to forthwith release Deed of Sale dated 27.03.2015 registered as Document No.1550 of 2015 in Book I in the office of the second respondent herein to the petitioner after duly completing the process of registration.

For Petitioner : Mr.V.Mohan Choudary

For Respondents : Mr.V.Subbiah,
Special Govt. Pleader

O R D E R

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

2. The petitioner claimed to have purchased a land admeasuring to an extent of 8,511 sq.ft. in Part of O.S.Nos.57,58,85,54, 55/2B and 61, Part of New S.No.54/1B2, 55/2B2, 58/1B and 61/2 of

Mannurpet Village, Ambattur Town and Taluk, Thiruvallur District by means of registered sale deed dated 27.03.2015 registered as Doc.No.1550 of 2015 in the office of the Sub-Registrar, Konnur, the second respondent herein for a total consideration of Rs.3,54,62,502/- from Mrs.D.Vanaja and 14 others. The petitioner received Form-I notice dated 20.04.2015 from the third respondent, calling upon him to pay the alleged deficit stamp duty and the petitioner also submitted its reply dated 20.04.2015 and requested for return of the sale deed for production before various Government authorities for mutation of records and also for submitting plans for putting up superstructure in the land and in this regard, submitted a representation dated 23.06.2015 to the third respondent for return of the sale deed and since, no orders have been passed, came forward to file this writ petition.

3. The learned counsel appearing for the petitioner has drawn the attention of this Court to the decision in *Tata Coffee Limited v. The State of Tamil Nadu* [2008 (3) CTC 614] wherein in similar facts and circumstances, this Court has enunciated the following principles to be followed and the same is extracted hereunder:

"..

3. Non-service of Form-I Notice and non-communication of provisional order - Final Order passed u/s.47-A(2) non est in law in absence of enquiry giving reasonable opportunity to parties.

4. Cases where Form I Notice served, or where S.47-A proceedings pending, or where Final order passed u/s.47-A(2) and Appeal u/s.47-A(5) pending - Registering Authority should release documents with endorsement in form of affixing seal indicating that reference u/s.47-A with respect to undervaluation and assessment of stamp duty payable is pending.

5. Should make corresponding entries in Register-And, pendency of S.47-A proceedings to be disclosed in Encumbrance Certificate.

6. Authorities entitled to recover deficit stamp duty in accordance with law, after completion of adjudication including Appeal or Revision.

7. Till such finality reached and deficit duty paid in full, there will be a charge on properties for deficit stamp duty.

8. On payment of deficit stamp duty, Registering Authority shall make appropriate entry in document regarding factum of payment of full stamp duty, discharging property from charge and consequential entries in EC and indexes."

4. In the light of the above facts and circumstances, this Court directs the third respondent to consider and dispose of the petitioner's representation dated 23.06.2015, in the light of the above cited decision and pass orders within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner.

5. This Writ Petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

jvm

To

- 1.The Inspector General of Registration,
The State of Tamilnadu,
Santhome,
Chennai-600 028.
- 2.The Sub-Registrar,
Konnur,
Chennai-600 049.
- 3.The District Revenue Officer (Stamps),
District Collectorate's Office,
M.Singaravelar Maaligai,
Chennai-600 001.

1 cc to Government Pleader, Sr. 33647

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