IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WP.No.22340/2015

Dr.Arunvel Kumar ..Petitioner

Versus

1. The Inspector General of Registration
   120, Santhome High Road, Chennai 600028.

2. The Sub Registrar
   O/o.The Sub Registrar, Thiruporur
   Chennai.

3. The Special Deputy Collector [Stamp]
   O/o.The District Collectorate,
   5th Floor, Singaravelar Maligai,
   Rajaji Salai, Chennai 600001. ..Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondent to to deliver the sale deed dated 20.01.2015 bearing Document No.1252/2015 registered on the file of the 2nd respondent.

For Petitioner : Mr.S.Sethuraman

For Respondents : Mr.S.V.Doraisolaimalai, AGP

ORDER

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

2.The petitioner claims that he has purchased agricultural lands admeasuring to an extent of 2 acres and 46 cents out of 26 acres and 71 cents comprised in S.Nos.98/1A2, 99/2A, 99/3A, 99/2B, 99/3B as per new patta No.1814, situated at No.155, Paiyanoor village, Thiruporur Taluk, Kancheepuram District through Sale Deed dated 20.01.2015 registered as Document No.1252/2015 on the file of the office of the Sub Registrar, Thiruporur. The said document was presented for valuation and according to the respondents the value of the property is Rs.8,58,04,800/- and the 2nd respondent has forwarded the document to the 3rd respondent under section 47-A of the Indian Stamp Act, for determining the value of the property. The 3rd respondent, in pursuance of the same, has fixed the stamp duty at Rs.60,06,340/- and demanded the deficit stamp duty as Rs.56,03,406/-. It is the claim of the petitioner that the value of the property is only Rs.57,56,271/- and has also paid the stamp duty of Rs.4,02,930- and since the petitioner required the document for his business requirement, he requested the 3rd respondent to release the document with necessary endorsement. Since the petitioner has not been favoured with any kind of response, he came forward to file this writ petition.

3.Heard the submissions of the learned counsel for the petitioner and Mr.S.V.Doraisolaimalai, learned Additional Government Pleader who accepts notice on behalf of the respondents.

4.This Court in the Judgment reported in 2008 [5] MLJ 128 ["Tata Coffee Ltd., Bangalore ..vs.. The State of Tamil Nadu by Secretary to Government, Commercial Taxes and Registration Department, Chennai-9 and others] has elaborately considered the scope of section 47-A of the Indian Stamp Act and culled out the following principles in paragraph 25, which reads thus:-

> "..............
>
> 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 and Others V. Joint Sub-Registrar, Madurai [supra], or not in any event of non-completion of the entire proceedings culminating to the passing of the 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 WP.No.37347/2007, the document was presented for registration on 12.04.2002 and the same was registered as document No.1625 of 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.

[2] In cases where Form I notice are served to the petitioners as seen in WP.Nos.234548 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 77 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 WP.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 WP.Nos.26871 of 2007 and 26658 of 2007, the petitioners are entitled to file further appeal to the appellate authority as per section 37-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 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."

5.This Court, in the light of the above facts and circumstances, directs the 2nd respondent to consider the claim of the petitioner for release of the above said Sale Deed after taking note of the principles / guidelines given in the above said judgment 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.

6.The Writ Petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS III )

/true copy/

Sub Asst. Registrar

AP



To

1. The Inspector General of Registration
   120, Santhome High Road, Chennai 600028.

2. The Sub Registrar
   O/o.The Sub Registrar, Thiruporur
   Chennai.

3. The Special Deputy Collector [Stamp]
O/o.The District Collectorate,
5th Floor, Singaravelar Maligai,
Rajaji Salai, Chennai 600001.

+1cc to Mr.S.Sethuraman, Advocate sr.37901
+1cc to Government pleader sr.38033

WP.No.22340/2015

kmzd[co]
srg 06.08.2015