

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.11.2015

CORAM

THE HONOURABLE MR.JUSTICE M.M. SUNDRESH

W.P.No.26814 of 2015

B.Manoharan

... Petitioner

- Vs -

1. The Special Deputy Collector for Stamps,
Vellore - 632 009
Vellore District.

2. The Joint Sub Registrar-II
Arakkonam,
Vellore District

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of mandamus, directing the respondents authority to release the original Sale deed dated 20.5.2014 registered as document No. 3320 of 2014 in the Office of the Sub Registrar - Arakkonam Joint - II in respect of land measuring Ac.01-85 cents comprised Survey No.68/5, Thokkolam Village, Arakkonam Taluk, Vellore District, to the petitioner, within a time to be stipulated by this Honourable Court, pending disposal of the proceedings under Section 47-A(1) of the Indian Stamps Act.

For Petitioner : Mr.A.V.Raja

For Respondents : Mr.A.Kumar,
Special Government Pleader

ORDER

The petitioner's document for sale dated 20.05.2014 was registered as document No.3320 of 2014 in the Office of the Sub Registrar-Arakkonam, Joint-II at Vellore District. However, the said document was not released in view of the pendency of the proceedings under Section 47 A of the Stamp Act. Now, seeking a release of the said document, the petitioner has come forward with the present Writ Petition.

2. It is seen from the records, that the petitioner on an

earlier occasion sought for the very same prayer by impleading Sub Registrar as a party. In the Writ Petition filed in W.P.No.8051 of 2015, this Court passed the following order, dated 23.03.2015:

2. It is seen that the respondent entertained a doubt about the correctness of the valuation and therefore, he has initiated proceedings under Section 47-A(1) of the Indian Stamp Act. It is also seen that the Adjudicating Authority, namely, the respondent has also issued a notice on 29.10.2014 to the petitioner directing the petitioner to appear in person for enquiry along with the relevant documents. Though the petitioner appeared in person on the said date and produced all the relevant records and documents, till date the respondent has not released the original sale deed. Therefore, the petitioner is before this Court, by filing the present writ petition with the aforesaid prayer.

3. Hence, the Writ Petition is disposed of with the following directions;

"i. The respondent shall return the document registered as Doc.No.3320 of 2014 dated 20.05.2014 with an endorsement on the said document to the effect that a reference under Section 47-A(1) of the Indian Stamp Act is pending;

ii. The factum of pendency of the reference under Section 47-A(1) of the said Act in respect of the said document shall be entered into in the encumbrance register also so as to protect the interests of the purchasers for knowledge;

iii, Pending the final order to be passed under Section 47A(1) of the said Act, there shall be a charge over the property in favour of the Government as per Section 47A(4) of the said Act;

iv. After adjudication proceedings are completed including appeal, for which the petitioner is entitled to under the provisions of the Indian Stamp Act and after payment of the amount towards stamp duty ultimately arrived at, necessary endorsement shall be made both in the document concerned as well as encumbrance register that the proceedings under Section 47-A of the said Act have been terminated; and

iv. The respondent is directed to release the document in question after complying with the above directions."

3. Now the petitioner has filed the present Writ Petition on the ground that the document has been referred to the first respondent with whom the enquiry is pending under Section 47 A of the Act. When, this Court passed the order already on 23.03.2015 though against the Sub Registrar, it would also apply to the respondents as well. The issue is same though the authority may be different. It is not in dispute that the order passed has become final and the challenge made by the respondents therein also ended in failure.

4. Accordingly, a direction is issued to the respondents to comply with the order dated 23.03.2015, within a period of four weeks from the date of receipt of a copy of this order. Taking note of the pendency of the proceedings under Section 47 A of the Act, the respondents are directed to conclude the same within a period of eight weeks, thereafter. It is made clear that the conditions mentioned in the said order would continue to stand as against the petitioner.

The writ petition is disposed of with the above direction.
No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

srn

To

1. The Special Deputy Collector for Stamps,
Vellore - 632 009
Vellore District.

2. The Joint Sub Registrar-II
Arakkonam,
Vellore District

+1 cc to Mr.A.V.Raja, Advocate, sr.62818
+1 cc to The Government Pleader, sr.62951

W.P.No.26814 of 2015

ug co
kra 27.11.2015