IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:04.02.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO. 2700 of 2015

Narayanasamy .. Petitioner

Vs

1. The Special Deputy Collector (Stamps)
   District Collectorate,
   Cuddalore-1.
2. The Special Tahsildar (Stamps),
   Tahsildar's Office,
   Tindivanam,
   Villupuram District,
   PIN 604 001.
3. The Sub-Registrar,
   Sub Registrar's Office,
   Avaraipakkam,
   Tindivanam,
   Villupuram District,
   PIN 604 001. .. Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India praying for issuance of Writ of Mandamus directing the respondents herein to return the registered sale deed in Book 1, bearing Document No.2990 of 2014, dated 04.7.2014 on the file of the 3rd respondent within a time frame that may be fixed by this Court.

For Petitioner: Mr. K. Elango

For Respondent: Mr. M.L. Mahendran
Govt. Advocate (R1 to R3)

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents 1 to 3 and perused the materials available on record.

2. With the consent of both parties, the writ petition is taken up for hearing at this stage.

3. The petitioner seeks for issuance of Writ of Mandamus to direct the 3rd respondent to return the registered sale deed which was presented for registration and registered as Document No.2990 of 2014 dated 4.7.2014. The petitioner came to know that the doument has not been released on the ground that there is a proposal to refer the document under Section 47A of the Indian Stamps Act for ascertaining the correct market value of the property.

4. Further, the petitioner would state that till date, no notice in form No.I has been issued to the petitioner. The question is as to when the matter is pending reference under Section 47A of the Act, whether the respondent could retain the document.

5. The issue involved in this writ petition is no longer res integra and has been decided by this court in several judgments and it would be worthwhile for this Court to refer the decision (Sub Registrar, Registration Department Vs. R. Rama) reported in (2008) 1 MLJ 825. An identical issue arose for consideration before this court in W.P.No.8585 of 2010 dated 26.04.2010, wherein, directions were issued to the Sub Registrar to return the sale deed subject to certain conditions and the same is extracted hereunder;

> "(i) The Registering Authority while releasing the documents shall make necessary endorsement on the original documents to the effect that the proceedings under Section 47-A of the Act are pending.
>
> (ii) The Registering Authority shall make necessary entries in the register maintained regarding the pendency of 47-A proceedings in respect of the documents subject matter of the registration so as to reflect the same in the Encumbrance Certificate for the benefit of the purchasers.
>
> (iii) Pending final decision in respect of the valuation under section 47-A(i), as per Section 47-A(4) there shall be a charge over the proeprties in favour of the Government in respect of the unpaid value of the stamp duty.
>
> (iv) After the entire proceedings under section 47-A are completed, on production of the original documents by the petitioner, the Registering Authority shall make necessary endorsement removing the earlier endorsement clearly stating that the entire amount of stamp duty under the documents have been paid in full and return the same.
>
> (v) After such endorsement, the Registering Authority shall make necessary entry of the completion of 47-A proceedings in the register maintained by them so as to reflect the same in the Encumbrance

Certificate."

6. In the light of the above, there will be a direction to respondents to return the sale deed bearing documengt No.2990 of 2014 dated 4.7.2014 within a period of two weeks from the date of receipt of a copy of the order subject to the following conditions.

(i) The Registering Authority while releasing the documents shall make necessary endorsement on the original documents to the effect that the proceedings under Section 47-A of the Act are pending.

(ii) The Registering Authority shall make necessary entries in the register maintained regarding the pendency of 47-A proceedings in respect of the documents subject matter of the registration so as to reflect the same in the Encumbrance Certificate for the benefit of the purchasers.

(iii) Pending final decision in respect of the valuation under section 47-A(i), as per Section 47-A(4) there shall be a charge over the properties in favour of the Government in respect of the unpaid value of the stamp duty.

(iv) After the entire proceedings under section 47-A are completed, on production of the original documents by the petitioner, the Registering Authority shall make necessary endorsement removing the earlier endorsement clearly stating that the entire amount of stamp duty under the documents have been paid in full and return the same.

(v) After such endorsement, the Registering Authority shall make necessary entry of the completion of 47-A proceedings in the register maintained by them so as to reflect the same in the Encumbrance Certificate."

7. Thereafter, it is open to the respondents to issue notice in Form No.I under provisions of Indian Stamps Act and the Rules framed thereunder and ascertain the correct market value of the property, after following due process of law. The petitioner shall cooperate if any such enqiry as and when notice in Form No.I is issued.

8. The Writ Petition is disposed of in the above terms. No costs. Consequently, connected M.P.No.1 of 2015 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msr

To

1.The Special Deputy Collector (Stamps)
District Collectorate,
Cuddalore-1.

2.The Special Tahsildar (Stamps),
Tahsildar's Office,
Tindivanam,
Villupuram District,
PIN 604 001.

3.The Sub-Registrar,
Sub Registrar's Office,
Avaraipakkam,
Tindivanam,
Villupuram District,
PIN 604 001.

1 cc to Government Pleader,Sr.No5957
1 cc to Mr. K.Elango,Advocate, SR.No.5819

W.P.No.2700 of 2015

kk(co)
pmk.5.3.2015