IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.4249 of 2015

S.Rajalakshmi ...Petitioner

Vs

The Sub-Registrar,
Kodambakkam,
Chennai ... Respondent

Prayer :- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondent to release the sale deed registered on 10.12.2014 vide document no.4766/2014 pending proceeding under Section 47A of the Indian Stamps Act.

For Petitioner : Mr.B.Manoharan

For Respondent : Mr.R.Vijayakumar
Additional Government Pleader

O R D E R

Heard Mr.B.Manoharan, learned counsel appearing for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the respondent. With the consent of either side, the writ petition itself is taken up for final disposal at the admission stage.

2.The petitioner seeks for release of the sale deed registered as document no.4766/2014 on 10.12.2014 by the respondent. It is stated that the respondent has entertained the document regarding the market value of the property as set out in the sale deed and therefore, he proposed to refer the document to the Deputy Collector (Stamps) for ascertaining the correct market value of the property under Section 47(A) of the Indian Stamp Act.

3. It is settled legal position that merely on the ground that document has been referred under Section 47(A) of the Act, or there is a proposal to refer is not a reason to retain the registered document. In fact, this issue was considered by this Court in several cases, wherein a direction has been issued to the registering authority to release the document subject to the provisions under Section 47(A) of the Stamp Act. At this stage, it is useful to refer to 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."

4. In the light of the above, there will be a direction to respondent to return the sale deed bearing document No.4766/2014 registered on 10.12.2014 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.".

5. Accordingly, it is left open to the respondent to refer under Section 47(A) of the Indian Stamps Act and to proceed with the matter in accordance with law. The petitioner is directed to co-operate with the enquiry, which may be fixed by the competent authority under Section 47(A) of the Indian Stamp Act.

With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Deputy Registrar
Dated:2.3.15

True Copy

Sub Assistant Registrar

To

The Sub-Registrar,
Kodambakkam,
Chennai

gj(co)
krd 6/3

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