

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 09-03-2015

CORAM:

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.No.6455 and 6456 of 2015

- 1 K.Baskar
S/o.G.Krishnasamy
No.2/5 Sri Kanchi Nagar
Vilan Kurichi Road
Coimbatore-611 035.
Petitioner
in WP.6455/2015
- 1 V.Vijayashankar
Rep. by his Power of Attorney Mr.
Venkatachalam 3C Primrose Block Ceebros
Garden 38 Arcot Road Virugambakkam
Chennai-92.
Petitioner
in WP.6456/2015
- Vs.
- 1 The Special District Revenue Officer (Stamps)
Collectorate Building
5th Floor Rajaji Salai Chennai-1
- 2 The Sub Registrar
Poonamallee Court Buildings Poonamallee.
Chennai-56.
Respondents
in both WP's

Petitions filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents to release the Sale Deeds, dated 22.4.2014 and 26.6.2014 with Document Nos.1381 and 1764 of 2014 registered before the 2nd respondent in petitioner favour.

For petitioner :: Dr. P. Vasudevan
For respondents :: Mr. M.L. Mahendran,
Government Advocate

ORDER

Heard the learned counsel appearing for the petitioner and Mr. M.L. Mahendran, learned Government Advocate appearing for the respondents. With consent, the main writ petition itself is taken up for final hearing.

2. The petitioners seek for a direction to the respondent to release the Sale Deeds dated 22.4.2014 and 26.6.2014 with Document Nos.1381 and 1764 of 2014 registered before the 2nd respondent in his favour. The said documents were accepted for registration and the registering authority did not agree with the value of the property as set forth in the instrument. Therefore, proceedings were initiated under Section 47A of the Indian Stamp Act. In this regard, a notice in Form I has been issued by the District Revenue Officer (Stamps), Chennai and the petitioner has been granted liberty to contest the proceedings.

3. Under similar circumstances, this court has issued directions to release the document subject to certain conditions in W.P.No.220 of 2011 dated 07-01-2011 and the operative portion of the order reads thus:

"It is seen that the second respondent entertained a doubt about the correctness of the valuation and therefore, he has referred the matter to the second respondent under Section 47-A(1) of the Indian Stamp Act for adjudication afresh. It is also seen that the Adjudicating Authority, namely the first respondent has also issued a notice in Form 1 and the adjudication process is going on. The petitioner is to file his objection and so on. In the meantime, the second respondent has no jurisdiction to retain the same.

3. Hence, the writ petition is disposed of with the following directions :

"i. The second respondent shall return the document registered as Doc.No.4286 of 2010 dated 14.6.2010 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 respondents are directed to release the document in question after complying with the above directions.""

4. In view of the above, the present writ petition is also disposed of with the following directions:

"i. The second respondent shall return the document registered as to release the Sale Deeds, dated 22.4.2014 and 26.6.2014 with Document Nos.1381 and 1764 of 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 respondents are directed to release the document in question after complying with the above directions.""

No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

glp

To

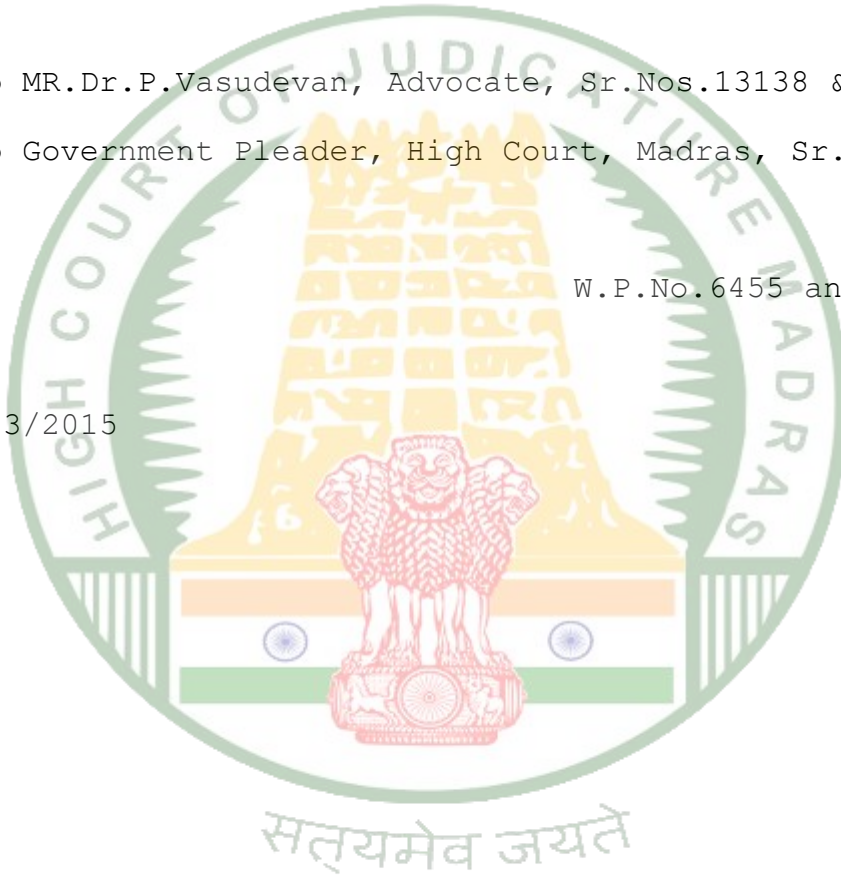
- 1 The Special District Revenue Officer (Stamps)
Collectorate Building
5th Floor Rajaji Salai Chennai-1
- 2 The Sub Registrar
Poonamallee Court Buildings Poonamallee.
Chennai-56

+2CCs to MR.Dr.P.Vasudevan, Advocate, Sr.Nos.13138 & 13139

+1 CC to Government Pleader, High Court, Madras, Sr.No.13290

W.P.No.6455 and 6456 of 2015

RSK(CO)
DRL : 23/03/2015



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