IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2015

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.8930 of 2015

M/s.Latif Estate Line India Limited
Represented by its Director
Mr.Feroz Abdul Latif ... Petitioner

Vs.

1.The Principal Secretary
Revenue Department,
State of Tamil Nadu
Secretariat Building, Chennai.

2.The Inspector General of Registration
No.100, Santhome High Road,
Chennai - 28

3.The District Collector
Kancheepuram District,
Kancheepuram.

4.The District Registrar,
Chengalpattu, Kancheepuram District

5.The Sub Registrar,
SRO, Thiruporur,
Thiruporur.

6.The District Revenue Officer (Stamps)
No.32, Rajaji Salai,
Chennai - 600 001. ... Respondents

Prayer:

Petition filed under section 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records from fifth respondent The Sub Registrar, SRO, Thiruporur, culminated in Na.Ka.No.7293/14/A6 dated 17.02.2015 and quash the same and consequently direct the fifth respondent, The Sub Registrar, SRO, Thiruporur, to release the document bearing NO.7371/2012 dated 26.07.2012 registered in favour of petitioner herein.

For Petitioner : Mr.R.Gopinath
For Respondents : Ms.P.Rajalakshmi
Government Advocate

O R D E R

Heard Mr.R.Gopinath, learned counsel appearing for the petitioner and Ms.P.Rajalakshmi, learned Government Advocate appearing for the respondents. With the consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

2.Petitioner has filed this writ petition to quash the notice issued by the respondent dated 17.02.2015 which is a notice issued under Section 47-A of the Indian Stamp Act. By the impugned notice, the respondent has claimed additional stamp duty and registration charges in respect of the document bearing document no.7371/2012.

3.Petitioner has challenged the impugned proceedings contending that the petitioner has purchased 28 cents of land and they valued the land at the rate of Rs.75,000/- per cent and the total value comes to Rs.21 Lakhs and the petitioner has paid stamp duty on the said value of the land and it is submitted that, that is the correct value of the property. By the impugned notice, the respondent has now proposed to value the document based on the value which was adopted by some other party in the same village and therefore, the petitioner has been called upon to pay additional stamp duty and registration charges.

4.Petitioner has challenged the impugned proceedings as been wholly without any basis, without taking factual situation concerned and the fifth respondent has exceeded his jurisdiction in issuing the notice.

5.After hearing the learned counsel for the parties and perusing the materials placed on record, it is to be pointed out that the impugned proceedings is only a show cause notice. Therefore, the proper procedure to be adopted by the petitioner is to submit his reply and contest the matter before the fifth respondent.

6.It is submitted by the petitioner that already the petitioner has given a representation through their counsel on 10.12.2014 to all the respondents and the same has not been considered.

7.In the light of the fact that the impugned proceedings is only a notice, this Court is not inclined to quash the same, but a direction is issued to the petitioner to submit their objections. However, in the interregnum, the fifth respondent is not entitled to withhold the document. This legal position has been clarified by this Court in several decision wherein, this Court has held that there is no justification to retain the document after registration and in this regard, reference can be made to the decision of this Court in the case of Sub Registrar, Registration Department Vs. R. Rama reported in (2008) 1 MLJ 825. Following the said decision, this Court in W.P.No.2700 of 2015 dated 04.02.2015, issued certain directions to the Sub Registrar to issue the documents subject to certain conditions which are as follows:

> "6. In the light of the above, there will be a direction to respondents to return the sale deed bearing document 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 enquiry 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.”

8.In the light of the above, there will be a direction to the respondent to return the sale deed bearing document no.7371/2012 within a period of two weeks, 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.

9.Since, already notice in Form No.I has been issued to the petitioner, petitioner is directed to submit their objection within a period of 15 days from the date of receipt of a copy of this order to the fifth respondent. On receipt of the objections, the fifth respondent shall conduct an enquiry after affording opportunity of personal hearing to the petitioner, consider the documents produced by the petitioner and pass a reasoned order on merits and in accordance with law as expeditiously as possible.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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Revenue Department,
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Secretariat Building, Chennai.

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No.100, Santhome High Road,
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Chennai - 600 001.

1 cc to Mr.R.Gopinath ,Advocate, SR.No.17270
2 cc to Government Pleader,Sr.No17599

W.P.No.8930 of 2015

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pmk.31.3.2015