

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2015

CORAM:

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

W.P.NO.29710 OF 2013
AND M.P.NO.1 OF 2013

L.M.Shah

... Petitioner

Vs.

1. The Deputy Collector (Revenue) North,
Government of Pondicherry,
Pondicherry,
 2. The Sub-Collector (Revenue) North,
Government of Pondicherry,
Pondicherry.
 3. The Sub-Registrar,
Oulgaret, Pondicherry.
- ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of Mandamus directing the respondents to release the petitioner's original sale deed dated 9.12.2002 registered as Document No.4485 of 2002 on the file of the 3rd respondent forthwith by considering the representation dated 09.04.2013.

For Petitioner : Mr.Stalin Abhimanyu

For Respondents: Mr.R.Sridhar, Govt.Advocate
(Pondicherry)

ORDER

The petitioner presented sale deed dated 9.12.2002 and the same was registered as Document No.4485 of 2002 on the file of the 3rd respondent. The petitioner paid the deficit stamp duty after nearly a decade. However, he has not paid the interest. Proceedings have been initiated against the petitioner for non-payment of the said due. Without challenging the said proceedings, the petitioner has come forward to file this writ petition seeking release of the document registered.

2. Learned counsel appearing for the petitioner made reliance upon the judgment rendered by this Court in B.Rajappa

Vs. The Special Deputy Collector (Stamps), (2002 (3) CTC 544) and submitted that no power lies with the respondents to hold the document after due registration, though conditions can be imposed while releasing it.

3. Learned Government Pleader appearing for the respondents submitted that in view of the pending proceedings, the document of the petitioner was not released. The petitioner admittedly did not challenge the proceedings initiated. On the contrary, what the petitioner wants is return of the document after due registration.

4. Admittedly, the document of the petitioner has been registered. In the said judgment relied on by the petitioner, it has been held that once the document is registered, it is bound to be released. Therefore, while the respondents can proceed with the recovery of the dues, the document registered cannot be withheld for ever. Even in the said decision, it has been held that the document can be released with an endorsement indicating about the dues and the pendency of the proceedings apart from other conditions that can be imposed. A condition can also be imposed that the document would continue as charge for the dues payable.

5. Considering the above, a direction is hereby issued to the respondents to release the document of the petitioner bearing Document No.4485 of 2002 within a period of four weeks from the date of receipt of copy of this order, subject to the conditions that can be imposed including those indicate above. This order is passed without prejudice to the rights of the respondents to proceed in accordance with law towards recovery of the amount payable by the petitioner in accordance with law. The writ petition is ordered accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

usk

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

Copy to:

1. The Deputy Collector (Revenue) North,
Government of Pondicherry,
Pondicherry,

2. The Sub-Collector (Revenue) North,
Government of Pondicherry,
Pondicherry.

3. The Sub-Registrar,
Oulgaret, Pondicherry.

+ 1 cc to Spl. Govt.Pondicherry (Puducherry) SR 55634

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