IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P. No.10561 of 2016

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M. Arvind .. Petitioner

Versus

1. The Chief Controlling Revenue Authority cum Inspector General of Registration
Santhome High Road
Mylapore, Chennai

2. The Special Deputy Tahsildar (Stamps)
Chennai

3. The Sub Registrar
Ambattur Sub-Registrar's Office
Ambattur
Tiruvallur District .. Respondents

Petition filed under Article 226 of The Constitution of India praying for issuing a Writ of Mandamus directing the respondents to return the sale deed dated 16.05.2008 registered as document No. 4428 of 2008 on the file of the office of the Sub-Registrar, Ambattur to the petitioner within a reasonable period to be fixed by this Court.

For Petitioner	:	Ms.M.Karthika for Mr. R. Neelakandan
For Respondent	:	Mr. V. Jayaprakash Narayanan Additional Government Pleader

ORDER

The petitioner seeks for issuance of a Mandamus to direct the respondents to return to him the sale deed dated 16.05.2008 registered as document No. 4428 of 2008 on the file of the third respondent.

2. According to the petitioner, he, along with three others have purchased agricultural lands measuring 3 acres 50 cents in Survey No. 6/2A, 88/1A1A, 88/2, 88/3, 88/2 and 88/3

situated at Kathirvedu Village within the jurisdiction of the third respondent for a sum of Rs.1,06,40,000/- vide sale deed dated 16.05.2008. Even though the sale deed was entertained by the third respondent and registered as document No. 4428 of 2008 on it's file, the third respondent entertained a doubt regarding the correct stamp duty payable on the sale deed. Therefore, the third respondent referred the sale deed dated 16.05.2008 to the second respondent under Section 47 (1) (A) of the Indian Stamp Act. The second respondent, after adjudication, concluded that the petitioner ought to have valued the land in question at the rate of Rs.400/- per square feet. Aggrieved by the same, the petitioner has filed an appeal on 25.04.2012 before the first respondent under Section 47 (A) (5) of the Indian Stamp Act. The first respondent, without considering any of the grounds raised by the petitioner in the appeal has rejected the same by an order dated 07.01.2014. As against the same, the petitioner has filed C.M.A. No. 3356 of 2014 before this Court and it is pending. As far as return of the registered sale deed, the petitioner has submitted representations dated 14.08.2015 and 16.10.2015 and requested the respondents to consider returning the sale deed to him. Inspite of such representations, the sale deed has not been returned to the petitioner, hence, this writ petition.

3. The learned counsel for the petitioner brought to the notice of this Court that the issue relating to return of the registered instrument pending appeal or revision is no longer res integra as it has been adjudicated by this Court in several cases. The petitioner has also relied on an order dated 11.02.2016 passed by me in WP No. 5107 of 2016 wherein a direction was issued to the registering authority to return the sale deed to the petitioner therein subject to certain conditions. By placing reliance on the above order dated 11.02.2016 passed in WP No. 5107 of 2016, the learned counsel for the petitioner prayed for issuing similar direction in this writ petition also.

4. On the above submission, this Court heard the learned Additional Government Pleader appearing for the respondents.

5. The issue as to the determination of the correct stamp duty payable by the petitioner on the sale deed dated 16.05.2008 is the subject matter of C.M.A. No. 3356 of 2014 pending before this Court. As far as return of the sale deed is concerned, as rightly pointed out by the learned counsel for the petitioner, in the order dated 11.02.2016 passed in WP No. 5107 of 2016, this Court, following the earlier order of this Court in the case of (Rajappa vs. The Special Deputy Collector (Stamps) reported in 2002 (2) CTC 544, allowed the writ petition. The relevant portion of the order dated 11.02.2016 is extracted hereunder:-

"5. Learned counsel for the petitioner relied on a decision of this Court reported in 2002 (2) CTC 544 (Rajappa vs. The Special Deputy Collector (Stamps), wherein this Court has issued the following directions with regard to the enquiry pending under Section 47-A of the Indian Stamp Act.

"15. While appreciating the anxiety expressed on behalf of the State by the learned Advocate General, this Court directs that :-

> "i) It is open to the Registering Authority to affix a seal, while releasing the original deed or conveyance or any other document indicating that a reference is pending under Section 47-A with respect to under-valuation and assessment of Stamp Duty payable, as and when the proceedings reach finality, the same shall be intimated to the person who is liable to pay stamp duty demanding payment of deficit Stamp Duty payable on the instrument.
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> ii) The Registrar to make corresponding entries under Sections 54, 55 of The Registration Act, 1908, in the Register of indexes as to pendency of proceedings under Section 47-A.
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> iii) On completion of adjudication as to the under-valuation by the competent authority as well as appeal or revision, if any, thereof, and depending upon the ultimate decision, the said authorities to recover deficit stamp duty according to law.
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> iv) Till such proceeding reaches finality and deficit is paid, there will be a charge for the deficit stamp duty, which is the subject matter of transfer or conveyance.
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> v) On payment of deficit stamp duty, if any payable, the Registrar may once again, on production of the original deed of transfer, make appropriate entry and recording the additional stamp duty paid and release of charge and also make consequential entries in the registers/indexes maintained under Sections 54, 55, etc., of The Registration Act."

6. Following the above said order of this Court, the respondents herein are directed to return the sale deed dated 16.05.2008 registered as document No. 4428 of 2008 on the file of the office of the Sub-Registrar, Ambattur to the petitioner within a period of two weeks from the date of receipt of a copy of this order, by making necessary endorsement on the document with regard to pendency of proceedings under Section 47-A of the Indian Stamp Act. The respondents are also directed to follow the other directions issued by this Court in the above said order. With the above direction, the writ petition is disposed of. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To
1. The Chief Controlling Revenue Authority
cum Inspector General of Registration
Santhome High Road
Mylapore, Chennai
2. The Special Deputy Tahsildar (Stamps)
Chennai

3. The Sub Registrar
Ambattur Sub-Registrar's Office
Ambattur
Tiruvallur District

+1 cc to Government pleader sr.24942
+3 ccs to M/s.R.Neelakandan Advocate sr.24842

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