

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.1162 of 2016

and

W.M.P.No.899 of 2016

A.Karthikeyan

... Petitioner

Vs.

The Sub-Registrar,
Thiruporur,
Kancheepuram District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records culminating in the Notice dated 29.10.2015 on the file of the respondent and to quash the same and further, to direct the respondent to release the sale deed registered as Document No.11342 of 2015, dated 07.09.2015, in the Sub-Registrar Office, Thiruporur.

For Petitioner : Mr.R.Singaravelan
for Mr.V.S.Jagadeesan

For respondent : Mr.P.Sanjay Gandhi, AGP

ORDER

This writ petition has been filed by the petitioner praying for issuance of a writ of Certiorarified Mandamus, calling for the records relating to the Notice dated 29.10.2015 on the file of the respondent and to quash the same and further, to direct the respondent to release the sale deed registered as Document No.11342 of 2015, dated 07.09.2015, in the Sub-Registrar Office, Thiruporur.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner that the petitioner is a practicing Advocate in the High Court of Madras. With the hard earned money, the petitioner has purchased an immovable property viz., a farm land plot measuring to an extent of 17,250 sq.ft., bearing plot No.01 in the layout called Thirumala Garden, comprised in New S.No.129/1A43, 129/2B,

129/3A, 129/4 and 130, situated at Kondangi Village, Thiruporur Taluk, Kancheepuram District for a sale consideration of Rs.17,25,500/- (as per document), by a sale deed bearing Doc.No.11342 of 2015 registered with the Office of the Sub-Registrar, Thiruporur. The petitioner has purchased the said property at the rate of Rs.100/- per sq.ft and he has paid only a sum of Rs.17,25,000/- towards the sale consideration. However, the guideline value fixed by the Government was on the higher side i.e, Rs.150/- per sq.ft, the respondent insisted the petitioner to pay the stamp duty and the registration fee only based on the guideline value. Accepting the said guideline value, the petitioner has shown the value of the property as per guideline value in the Document as Rs.25,87,500/-, though in real terms he paid only Rs.17,25,000/- towards sale consideration. The said sale deed was registered on 07.07.2015. But, there was inordinate delay in releasing the document. After registration of the sale deed, instead of releasing the document, the respondent issued a notice to the petitioner in the form of an order dated 29.10.2015 demanding payment of a sum of Rs.1,20,750/- towards additional stamp duty and a sum of Rs.17,250/- towards additional registration charges. According to the petitioner, the said notice/order dated 29.10.2015, demanding payment of additional stamp duty and registration charges, is an unlawful one, which runs contrary, not only to the valuation declared and published by the Registration Department in its official website, but also to the receipt No.201535167 issued by the respondent to the petitioner, accepting the value of the property at Rs.150/- per sq.ft and the stamp duty payable thereon. It is further case of the petitioner that the respondent has no jurisdiction to pass the impugned order/notice. After registering the document, the respondent cannot go back and start to enquiry about the value of the property. Even if there is any undervaluation of the property, the respondent should have referred the document as per Section 47 of the Stamp Act to the Collector, without taking any independent decision. Hence, the petitioner has come forward with the present writ petition before this Court.

3.The learned counsel for the petitioner submitted that the once the document is registered, the registering authority viz., respondent herein has no authority to retain the document, without releasing the same. After registering the document, even if there is any undervaluation as claimed by the respondent, the respondent has to refer the document to the Collector under Section 47A of the Stamp Act and release the document.

4.But, the learned Additional Government Pleader contended that if the petitioner pays a sum of Rs.1,20,750/- towards additional stamp duty and a sum of Rs.17,250/- towards additional registration charges, the document would be released.

5.Considering the facts and circumstances of the case, I am of the opinion, as contended by the learned counsel for the petitioner, even if there is any undervalue of the property, once the document is registered, the respondent has no authority to retain the document and the respondent is bound to release the document. Hence, the impugned order is liable to be set aside.

6.Accordingly, the impugned order/notice is set aside and the matter is remanded back to the respondent with a direction to pass an appropriate fresh order, after affording an opportunity of personal hearing to the petitioner, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

With the above terms, the writ petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

The Sub-Registrar,
Thiruporur,
Kancheepuram District.

+1cc to Mr.V.S.Jagadeesan, Advocate, S.R.No.6644

W.P.No.1162 of 2016
and
W.M.P.No.899 of 2016

kk(CO)
srg(22/02/2016)