

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 31.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.12101 of 2016

K.C.Megaraj

... Petitioner

Vs.

1. The District Registrar,
Namakkal District,
Namakkal.

2. The Sub Registrar,
Office of the Sub Registrar,
Komarapalayam,
Namakkal District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, to direct the respondents to remove the entries/encumbrance made in respect of document No.3724 of 2011 dated 09.05.2011 on the file of the 2nd respondent herein by considering the petitioner's representation dated 15.3.2016.

For Petitioner : Mr.R.Marudhachalamurthy

For respondents : Mrs.P.Rajalakshmi, GA

ORDER

By consent of both the parties, the writ petition is taken up for final disposal at the time of admission itself. Heard the learned counsel for the petitioner and the learned Government Advocate, who took notice for the respondents.

2. This Writ Petition has been filed by the petitioner, for a mandamus, directing the respondents to remove the entries/encumbrance made in the document bearing No.3724 of 2011 dated 09.05.2011 on the file of the 2nd respondent herein by considering his representation dated 15.03.2016.

3. It is the case of the petitioner that he along with his three brothers, viz., C.Somasundaram, C.Mohanasundaram and K.C.Jayakumar, has purchased the property situated in

K.Re.Survey No.58/2 to an extent of 0.41 cents at Komarapalayam Amani village, by way of sale deeds bearing document Nos.2073/1995, 2071/1995, 2074/1994 and 2072/1995 respectively. After the purchase, they enjoyed the said property jointly for some time and later, his three brothers have executed release deed in favour of the petitioner on 09.05.2011 vide a registered document bearing No.3724 of 2011. Subsequently, on payment of relevant stamp duty by the petitioner, the document was released, after registration. While so, he applied for encumbrance certificate on 09.02.2016 and at that time, he found that an entry was made in respect of the document No.3724 of 2011 to the effect that there was a deficit stamp duty payable at Rs.1,56,750/-.

4. It is the further case of the petitioner that likewise, the petitioner also got registered the document bearing No.3723/2011 in respect of another property adjacent to the above said property in the very same Survey Nos.58/2A and 58/2B after executing the release deed by his three brothers, however, in respect of this property, there was no such entry regarding deficit stamp duty. Therefore, when both the documents bearing Nos.3723 and 3724 of 2001 dated 09.05.2011 were respectively executed between the same parties and the nature of the documents is similar and stamp duty was paid as per the guideline fixed by the respondents, the first respondent has erroneously made an entry, demanding stamp duty in respect of document No.3724 of 2011. Hence, the petitioner has approached the 2nd respondent and made a representation, dated 15.03.2016 requesting him to remove the entry in respect of the above said document. However, as there was no proper response, the petitioner has come forward with the present writ petition.

5. Learned counsel for the petitioner submitted that the petitioner got registered two documents bearing Nos.3723 and 3724 of 2011 in respect of the properties situated in same survey numbers by duly paying the stamp duty as per the guideline value, however, the first respondent has made entry in encumbrance certificate pertaining to document No.3724/2011 only, demanding stamp duty to tune of Rs.1,56,750/-. In this regard, the petitioner has made a representation dated 15.03.2016 and the same is still pending before the second respondent.

6. Considering the limited nature of the relief sought for herein, this Court permits the petitioner to submit a fresh representation along with the copy of this order within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the respondents are directed to consider the same by affording an opportunity of personal hearing to the petitioner as well as to all the necessary parties, if any and pass appropriate orders within a period of

six weeks thereafter. It is made clear that this Court is not expressing any opinion with regard to the merits of the claim made by the petitioner and it is for the respondents to pass appropriate orders purely on merits and in accordance with law.

7. The writ petition is disposed of accordingly. No costs.
rk

s/d-
Assistant Registrar(CS-VII)

True Copy

Sub-Assistant Registrar

To

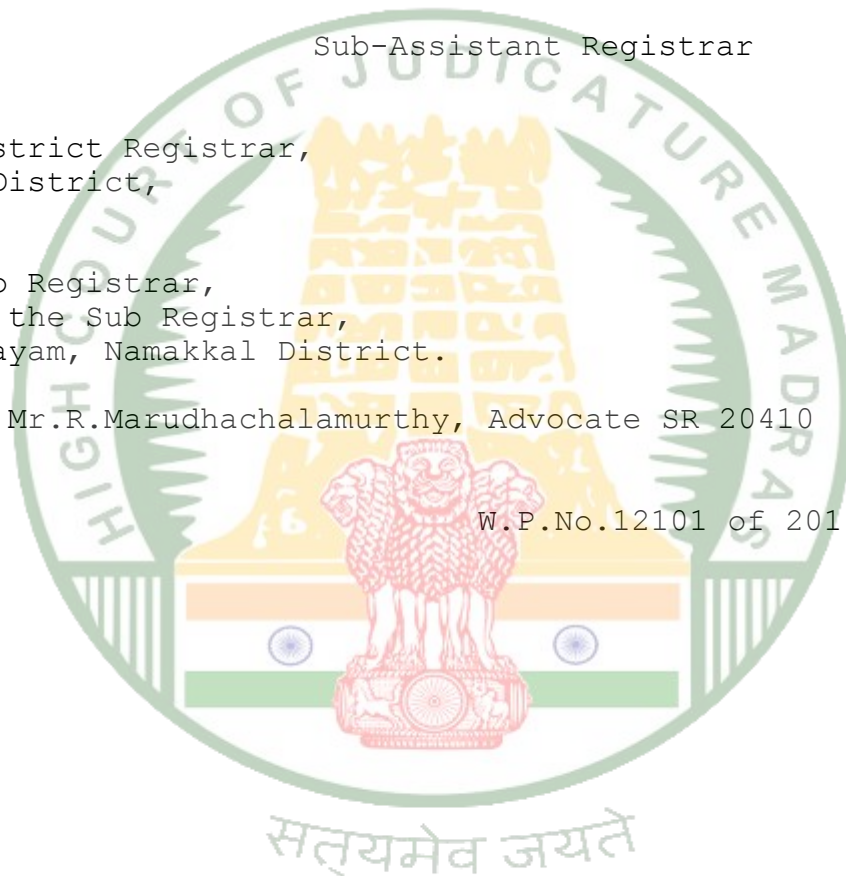
1. The District Registrar,
Namakkal District,
Namakkal.

2. The Sub Registrar,
Office of the Sub Registrar,
Komarapalayam, Namakkal District.

+ 1 cc to Mr.R.Marudhachalamurthy, Advocate SR 20410

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