

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.13241 of 2016

K.Thilakavathy

... Petitioner

vs.

1.The Inspector General of
Registration,
Santhome,
Chennai-4.

2.The Sub Registrar,
Adyar,
Chennai-20.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus, directing the respondents to release and return to the petitioner the sale deed dated 24.2.2016 registered as document No.460 of 2016 on 26.2.2016 in the office of the second respondent.

For Petitioner : Mr.R.Prabakaran

For Respondents : Mr.P.Sanjay Gandhi,
Addl. Govt. Pleader.

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents to release and return the sale deed dated 24.2.2016 registered as document No.460 of 2016 on 26.2.2016 in the office of the second respondent to her.

3. The case of the petitioner, in brief, is as follows:-

(a) One Vimala Dharmalingam and Dharmalingam are the absolute owners of 13/500th undivided share of land equivalent to 533.36 sq.ft. in Plot Nos.12, 13, 14 and 15 in approved layout

LA No.11/86, T.S.No.2/5, Urur Village, Adyar, Chennai-20 along with residential flat No.A-22 in III Floor, Yamuna Homes Apartments, Parameswari Nagar 4th Street, Adyar, Chennai-20, having built up area of 1590 sq.ft. The said Vimala Dharmalingam and Dharmalingam have entered into an agreement dated 21.4.2001 with the petitioner and her son K.Prasad in respect of Flat A-22 along with 13/500th (538.36 sq.ft.) UDS, on receipt of full sale consideration of Rs.20,66,000/-.

(b) In the meanwhile, one K.Raghu and his father in law K.Maiyyan have interfered with the possession of the petitioner and his son in Flat No.A-22 claiming right over the said flat. In this regard, civil suit Nos.2674 of 2001 and 209 of 2002 came to be filed before this Court and the suit in C.S.No.2674 of 2001 was decreed in favour of the petitioner and his son K.Prasad vide judgment and decree dated 18.2.2016. Hence, there is no restriction for said Vimala Dharmalingam and Dharmalingam to execute the sale deed in respect of flat A-22, measuring to an extent of 1590 sq.ft built up area along with 13/500th (538.36 sq.ft.) undivided share of land in Plot Nos.12, 13, 14 and 15 in approved layout L.A.No.11/86, totally measuring 8 grounds 1506 sq.ft. in favour of the petitioner and her son K.Prasad. Since her son K.Prasad has opted to get the sale deed in favour of the petitioner, the said Vimala Dharmalingam and Dharmalingam have executed a sale deed in favour of the petitioner.

(c) The sale deed was presented before the second respondent for registration on 24.2.2016 and the second respondent has also registered the same on 26.2.2016 as document No.460 of 2016. However, the second respondent is retaining the sale deed without returning the same to the petitioner stating that there is deficit stamp duty and the same has to be subjected to the proceedings under Section 47-A of the Indian Stamp Act. The second respondent has no right or authority to retain the sale deed. Hence, the petitioner has come up with the present writ petition seeking a direction to the respondents to release and return the sale deed dated 24.2.2016 registered as document No.460 of 2016 on 26.2.2016.

4. Today, when the matter was taken up for consideration, learned counsel appearing for the petitioner submitted that in identical issue, this Court, by an order dated 16.10.2012, in W.P.No.28071 of 2012, has directed the respondents therein to release the document after making necessary endorsement about the pendency of the proceedings under Section 47-A of the Stamp Act. The relevant portion of the said order is usefully extracted hereunder:-

" 4. It is the case of the petitioners that even though the document has been registered, the same has not been released in their favour, alleging that

proceedings under Section 47-A of Stamp Act are pending in respect of the property purchased by them. In such circumstances, in my considered view, the third respondent or the other respondents have no manner of right to keep the document with them. The only remedy available to them is that the document shall be returned to the petitioners after making necessary endorsement in the document about the pendency of the proceedings under Section 47-A of Stamp Act.

5. In view of the same, the writ petition stands ordered, directing respondents 2 and 3 to return the original sale deed registered at the instance of the petitioners dated 29.3.2012, within a period of one week from the date of receipt of a copy of this order, after making necessary endorsement about the pendency of the proceedings under Section 47-A of the Stamp Act. M.P.No.1 of 2012 is closed. No costs."

Following the same, there shall be a similar order in this writ petition also.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Inspector General of Registration,
Santhome,
Chennai-4.
2. The Sub Registrar,
Adyar,
Chennai-20.

+1cc to Government Pleader Sr.23171
+1cc to Mr.R.Prakasam, Advocate Sr.22958

W.P.No.13241 of 2016

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srg 02/05/2016