IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.4.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.14308 of 2016

D.Anusuya
D/o.R.P.Darrmalingam Plot No.1379C D.No.
15C Golden Villa 6th St
Vallalarkudiyiruppu 18th Main Rd I Block
Anna Nagar West Chennai-40. ... PETITIONER

Vs.

1 The District Revenue Officer
(Stamps) O/o.The District Collector 5th
Floor M.Singaravelar Maligai No.32 Rajaji
Road Chennai-1.

2 The Sub Registrar
Sambiam. ... RESPONDENTS

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents 1 and 2 to return the sale deed document registered as document No.4517 of 1997 on the file of SRO Redhills the 2nd respondent herein forthwith.

For Petitioner : Mr.M.Vivekanandan
For Respondents : Mr.P.Rajalakshmi, G.A.

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O R D E R

The petitioner has filed this Writ Petition for issuance of a Writ of Mandamus to direct the respondents 1 and 2 to return the sale deed, dated 16.7.1997 registered as Document No.4517 of 1997 on the file of the SRO, Redhills, the second respondent herein, within the period that may be stipulated by this Court.

2. In the affidavit filed in support of the Writ Petition, the petitioner stated that she purchased the property from one S.Prakash Rao and others on 16.7.1997, vide sale deed, before the second respondent-Sub-Registrar and the sale deed was

registered in Document No.4517 of 1997. It is the grievance of the petitioner that the second respondent refused to return the registered sale deed, even though the petitioner has complied with all the pre-requisites of registration.

3 In view of the order passed by the first respondent as stated supra, the second respondent ought to have returned the document. Hence, the petitioner has made a representation to the second respondent to return the registered sale deed, for which, return the registered sale deed, for which, it was orally informed to the petitioner that document was referred under Section 47-A of the Indian Stamp Act and enquiry in that regard is pending. Hence, the petitioner has filed this Writ Petition for the above relief.

4. Thereafter, the first respondent passed an order, dated 14.5.2003 fixing the deficit stamp duty. The petitioner has filed an appeal before the Appellate Authority against the said order.

5. Learned counsel for the petitioner relied on a decision of this Court reported in 2002 (3) CTC 544 (Rajappa.B. 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.
>
> (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.
>
> (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.

(iv) Till such proceedings 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.

(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 said sale deed, dated 4.2.2001, 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 the pendency of proceedings under Section 47-A of the Indian Stamp Act and the respondents are also directed to follow the other directions issued by this Court in the said order.

7. With the above directions, this Writ Petition is disposed of. No costs.

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s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Copy to

1 The District Revenue Officer
(Stamps) O/o.The District Collector 5th Floor M.Singaravelar Maligai No.32 Rajaji Road Chennai-1.

2 The Sub Registrar
Sembiam.

+ 1 cc to Mr.M.Vivekanandan, Advocate SR 24018

+ 1 cc to Govt.Pleadser SR 24249

ad(co)
prk1/6

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