IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.24757 of 2014

L.Gowreeswari .. Petitioner

Vs.

1.District Revenue Officer (Stamps),
Office of the District Collector,
5th Floor,
Singaravelar Maligai,
32, Rajaji Salai,
Chennai-600 001.
2.The Sub Registrar,
Virugambakkam,
Chennai. .. Respondents

The writ petition is filed under Article 226 of the Constitution of India praying for the issue of a writ of mandamus, directing the respondents to release the sale deed, dated 30.12.2013, registered as Document No.687/2014 on the file of the second respondent.

For Petitioner : Mr.S.Annamalai
For Respondents : Mr.R.Ravichandran, AGP

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ORDER

Heard.

2 This writ petition has been filed by the petitioner, praying that this Court may be pleased to issue a Writ of Mandamus, directing the respondents to release the sale deed, dated 30.12.2013, registered as Document No.687/2014, on the file of the second respondent.

3 The petitioner has stated that the petitioner had entered into an oral agreement with one Arunachalam, on 28.9.1998, to purchase his undivided share in the land in question, for a total consideration of Rs.24,00,000/- and an advance amount of Rs.1,00,000/- had been paid, on the date of the oral agreement. Since the said Arunachalam had failed to perform his part of the contract, the petitioner had filed a

civil suit, in O.S.No.983 of 1998, on the file of this Court, for specific performance of the contract. The said suit had been decreed, in favour of the petitioner, on 28.7.2009. An execution petition, in E.P.No.4303 of 2010, for the execution of the sale deed, had also been filed. Since the judgment debtor had failed to appear before the Court, even after the court notice had been served on him, this Court had passed an ex parte order, against the judgment debtor, on 3.11.2010, directing the petitioner to file a draft sale deed before the 1st Assistant Registrar, Original Side, High Court, and the same had been approved, on 11.2.2013. Thereafter, the petitioner had presented the document, for registration, before the second respondent, on 30.12.2013. The said document had been registered, as document No.687/2014. However, the second respondent had retained the document and referred it, under Section 47-A of the Indian Stamp Act,1899, for deficit stamp duty, without returning the document to the petitioner.

4 The learned counsel appearing on behalf of the petitioner had placed reliance upon the following decisions, in support of the contention that the registering authority cannot retain the document, during the pendency of the proceedings initiated under Section 47-A of the Indian Stamp Act,1899.

(i)R.Lakshmiammal Vs. The Special Deputy Collector (Stamps) [W.P.Nos.1261 and 1262 of 2015, dated 10.2.2015]

(ii)Pritam Kukillaya and another Vs. The District Collector, Chennai District and others [W.P.No.7199 of 2016, dated 26.2.2016]

5 In view of the submissions made by the learned counsel appearing on behalf of the petitioner and in view of the decisions cited supra, this Court finds it appropriate to direct the second respondent to return the sale deed, registered as document No.687/2014, to the petitioner, within a period of four weeks from the date of receipt of a copy of this order, subject to the following conditions.

(i)The Registering Authority, while releasing the document concerned, shall make the necessary endorsement on the original document to the effect that the proceedings under Section 47-A of the Indian Stamp Act, 1899, are pending.

(ii)The Registering Authority shall make the necessary entries in the appropriate register, regarding the pendency of the 47-A proceedings, in respect of the document, which is the subject matter of the registration, so as to reflect the same in the Encumbrance Certificate, for the benefit of the purchasers.

(iii)Pending final decision, in respect of the valuation of the document, under section 47-A(1), as per Section 47-A(4), there shall be a charge over the properties, in favour of the Government, in respect of the unpaid value of the stamp duty.

(iv)After the entire proceedings under section 47-A are completed, on production of the original document, by the petitioner, the Registering Authority shall make the necessary endorsement, removing the earlier endorsement, clearly stating that the entire amount of stamp duty, payable under the document, has been paid in full, and return the same.

(v)After such endorsement, the Registering Authority shall make the necessary entry relating to the completion of the 47-A proceedings, in the register maintained for the said purpose, so as to reflect the same in the Encumbrance Certificate."

6 Accordingly, the writ petition is allowed. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.District Revenue Officer (Stamps),
Office of the District Collector,
5th Floor,
Singaravelar Maligai,
32, Rajaji Salai,
Chennai-600 001.

2.The Sub Registrar,
Virugambakkam,
Chennai.

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