IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2016

CORAM

THE HON'BLE MR. JUSTICE M.S. RAMESH

W.P.No.8216 of 2013
and M.P.No.1 of 2013

1. T.Venkatesan
2. T.Natarajan
3. Vasavi Trust rep. by its
   Chairman, P.Thyagarajan,
   225, Nehru Street,
   Puducherry. ...Petitioners

Vs.

1. The Inspector General of Registration,
   Registration Department,
   Chennai - 600 028.

2. The Joint Sub Registrar No.1,
   Registration Department,
   Tindivanam, Villupuram District. ...Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Ceriorarified Mandamus to call for the records passed by the second respondent in his proceedings Na.Ka.No.737/Ababi/2013 dated 26.02.2013 and quash the same, and direct the respondents to return the un-registered document presented by the petitioners for registration bearing pending Document No.51 of 2012 tot he petitioners.

For Petitioners: Mr.V.Sivalingam
for C.S.Associates

For Respondents: Mrs.M.E.Raniselvam
Additional Government Pleader

O R D E R

The petitioners intended to purchase a land at Vitlapuram Village, Tindivanam Taluk, Villupuram District. In connection with the same, they presented a sale deed 26.09.2012 to the second respondent for the purpose of registration. On receipt of the sale deed the second respondent had demanded a sum of Rs. 13,26,426/- towards stamp duty and further sum of Rs.1,89,500/- towards registration charges.

2. Since the Trust did not have the necessary funds to pay the stamp duty and the registration charges, they had expressed their unwillingness to purchase the said land and requested the first respondent to return the un-registered sale deed.

3. At this juncture, the second respondent had issued the impugned order dated 26.01.2013, demanding the stamp duty as well as the registration charges for the same. Aggrieved against this order the petitioners have come before this Court.

4. Heard Mr.V.Sivalingam, learned counsel for the petitioners and Mrs.M.E.Raniselvam, learned Additional Government Pleader for the respondents.

5. Admittedly, the document in question is un-registered document. The reason of the second respondent in the impugned order dated 26.02.2013, is that by returning the un-registered sale deed the Government would be at revenue loss.

6.I am unable to accept the contention of the second respondent in this regard. When no registration is done by the second respondent on the instrument presented, the question of payment of stamp duty and the registration charges will not arise. There is no provision either under the Indian Stamp Act or the Registration Act which empowers the respondents to collect the stamp duty or registration charges for an un-registered document which has been presented and where the party to the instrument requests for return of the un-registered document.

7. Under such circumstances, the reasoning in the impugned order can not be justified and is liable to be set aside. Accordingly, the writ petition is allowed and the impugned order dated 26.02.2013 is set aside and the second respondent is directed to forthwith return the un-registered sale deed dated, 26.09.2012 to the petitioner within a period of two weeks from the date of receipt of a copy of this Order.

8. With the above directions, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Inspector General of Registration,
   Registration Department,
   Chennai - 600 028.

2. The Joint Sub Registrar No.1,
   Registration Department,
   Tindivanam, Villupuram District.

+1cc to the Government Pleader sr.66153

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rsi[co]
srg 10/12/2016