

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.Nos.18521 and 18522 of 2016

and WMP.Nos.16205 and 16206 of 2016

Futura Polyesters Limited,  
Mumbai and having its registered officer  
at Paragon Centre,  
Pandurang Budhkar Marg,  
Mumbai -400 013 and represented by  
its Authorized Signatory. ... Petitioner in both W.Ps.

Vs.

1.District Registrar (Administration),  
(In the cadre of Assistant Inspector  
General of Registration),  
North Chennai,  
Chennai.

2.Sub-Registrar,  
Tiruvotriyur. ... Respondents in both W.Ps.

Prayer in W.P.No.18521 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the second respondent herein to release the document of sale dated 11.12.2014 and registered as Doc.No.8196 of 2015 on the file of the Sub-Registrar, Thiruvotriyur and executed by the petitioner herein to and in favour of Mrs.Grace Jayanthi Rani and after making necessary endorsement regarding the pendency of the proceedings under the provisions of the Indian Stamp Act, 1899 and under the provisions of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 and within such time as may be prescribed by this Court.

Prayer in W.P.No.18522 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the second respondent herein to release the document of sale dated 23.05.2016 and registered as Doc.No.3528 of 2016 on the file of the Sub-Registrar, Thiruvotriyur and executed by the petitioner herein to and in favour of Mr.Vikram A. Jain and two others and after making

necessary endorsement regarding the pendency of the proceedings under the provisions of the Indian Stamp Act, 1899 and under the provisions of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 and within such time as may be prescribed by this Court.

For Petitioner : Mr.R.Sivaraman  
in both W.Ps.

For Respondents : Mr.R.Govindasamy,  
in both Wps. Special Govt. Pleader

#### C O M M O N O R D E R

By consent, these writ petitions are taken up for final disposal.

2. The petitioner, in the affidavit filed in support of these writ petitions, would aver among other things that he is the owner of the property bearing S.Nos.21/1, 22, 23/1, 24, 25, 26/2, 27/1, 27/3, 37/1, 38/2 etc., Chinna Sekkadu Village, now Madhavaram Taluk, Tiruvallur District and was running an industry in the name and style of "The Indian Organic Chemicals Ltd., Mumbai" and now it is called as "Futura Polyesters Limited, Mumbai", and in pursuant to the orders passed by the Registrar of Companies, fresh Certificate of Incorporation was issued by the said authority. It is further stated by the petitioner that originally the company had borrowed loans from various financial institutions and recovery action has been initiated by the concerned financial institutions as well as by the Government for non-payment of statutory dues and therefore, the company has decided to part with the above said properties for industrial purposes by establishing an Industrial Park called "Futura Business Park" and necessary approvals/sanctions have also been obtained.

3. It is further stated by the petitioner that a document of sale dated 11.12.2014 executed by the petitioner company in favour Mr.A.K.Mani pertaining to S.Nos.41/2, 42 and 48/1, Chinna Sekkadu Village, Madhavaram Taluk, Tiruvallur District, admeasuring to an extent of 61,500 sq.mtrs was presented for registration before the second respondent writing the true market value of the property. However, the second respondent called for a report regarding the fixation of market value and it is the stand of the petitioner that for the purpose of ascertaining the market value, there is no provision in the Stamps Act to retain the documents submitted for registration and in this regard, the petitioner filed W.P.No.13180/2016 before this Court and an order of interim stay was granted till

03.06.2016, vide order dated 26.04.2016 and the second respondent was also directed to release the document dated 11.12.2014 bearing No.1291/2016/BK1, after making necessary endorsement regarding the pendency of the proceedings under the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, within a period of two weeks. The petitioner would further state that it executed sale deeds in favour of Mrs.Grace Jayanthi Rani in respect of Plot Nos.55, 56, 67, 68 bearing S.Nos.37/1 and 44/2, Chinna Sekkadu Village, Thiruvettriur Taluk, Tiruvallur District and also in favour of Mr.Vikram A.Jain, Mrs.Bhanumati A.Jain and Mrs.Sejal V.Jain in respect of Plot No.41, bearing S.No.37, admeasuring to an extent of 3060 sq.mtrs and submitted before the second respondent for registration and though the second respondent has registered the sale deeds as Doc.Nos.8196 of 2015 and 3528 of 2016, refused to release the document citing the reason of pendency of the proceedings under the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 and therefore, the petitioner came forward with these writ petitions.

4. Mr.R.Sivaraman, learned counsel appearing for the petitioner has drawn the attention of this Court to the materials placed as well as Section 47-A of the Indian Stamp Act, 1899 and would submit that once the document is registered, the second respondent has no power to retain the same and prays for appropriate orders.

5. Mr.R.Govindasamy, learned Special Government Pleader appearing for the respondents has drawn the attention of this Court to the counter affidavit and would submit that if a property dealt with in an instrument is referred for determination of market value, the registering officer is not bound to return the instrument and accordingly, the documents are being retained.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. In B.Rajappa and another v. The Special Deputy Collector (Stamps), Chennai and two others [2002 (3) CTC 544], scope of Section 47-A of the Indian Stamps Act, 1899 came up for consideration and it is relevant to extract 15 of the said judgment:

"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 undervaluation 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 instructions.

ii) The Registrar to make corresponding entries under Sections 54, 55 of The Registration Act, 1909 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 proceeding 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."

8. In the light of the above cited judgment, these writ petitions are disposed of and the second respondent is directed to return the sale deeds in Doc.Nos. 8196/2005 and 3528/2016, to



the petitioner after making necessary endorsement and the respondents shall complete the said exercise within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.District Registrar (Administration),  
(In the cadre of Assistant Inspector  
General of Registration),  
North Chennai,  
Chennai.

2.Sub-Registrar,  
Tiruvotriyur.

+2cc to Mr.N.Damodaran, Advocate Sr.32326, 32325  
+1cc to the Government Pleader Sr.32463

W.P.Nos.18521 and 18522 of 2016

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srg 20/06/2016

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