

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2016

CORAM

THE HONOURABLE MR. JUSTICE M.M .SUNDRESH

W.P. No. 33195 of 2015

Mr.R. Krishnamurthy

..Petitioner

Vs.

1. Sub Registrar,
Konnur, SRQ,
Chennai 600 049.
 2. State of Tamil Nadu,
rep. by Chief Revenue Controlling
Authority,
The Inspector General of
Registration,
100, Santhome High Road,
Chennai 600 028.
 3. The District Registrar,
First Line Beach,
Chennai 600 001.
- ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in respect of Letter No. 242/2015 dated 01.10.2015 and quash the same and direct the respondents to release the Sale Deed Document No. P93 which has been registered on 13.07.2015 immediately.

For Petitioner :: Mr.M.V. Swaroop

For Respondents:: Mr.R.A.S. Senthilvel,
Addl. Govt. Pleader
for R1 to R3

O R D E R

The petitioner purchased a property by the sale deed dated 13.07.2015 from one K. Tulasiraman. The said sale deed indicates that a larger extent of property, in which the property purchased under the sale deed dated 13.07.2015 is covered, was originally purchased by the petitioner's vendor namely, K. Tulasiraman and another person, by name, N. Viswanathan, who

incidentally became a confirming party to the sale deed in question. Pursuant to the partition effected between the persons aforesaid, sub-division approval was also obtained on 12.05.2015. The subject matter of the sale deed, with which this Court is concerned, is Plot No.B, Old Door No. 65/1, New No.16, Ninth Street, Baba Nagar, Villivakkam, Chennai - 600049. This is the plot which has been sub-divided in favour of the petitioner's vendor K. Thulasiraman. Now, by the impugned order, it has been stated that an additional stamp duty is required to be paid as the other person, namely, N. Viswanathan, joined as a party to the execution of the sale deed as a confirming party. In other words, it is the case of the respondents that without registering the partition deed, indirectly, it is sought to be done to evade payment of requisite stamp duty. Challenging the said order, the petitioner has come forward with the present writ petition.

2. Heard the learned counsel on either side.

3. This Court finds considerable force in the submission made by the learned counsel for the petitioner. It is not as if the petitioner is seeking to purchase the entire property, which was originally purchased by the petitioner's vendor and the other person, by name, N. Viswanathan. The present sale deed is sought to be effected from the vendor of the petitioner, who got a larger extent of property subdivided by proceedings dated 12.05.2015. In other words, the remaining portion of the property has gone to N. Viswanathan, which is not the subject matter of the sale deed dated 13.07.2015.

4. Coming to the objection raised in the counter affidavit filed, though not mentioned in the impugned order, in law, there can be an oral partition. Even otherwise, there is no question of paying 8% stamp duty for partition deed as the said deed is meant for dividing the properties between the co-owners, who, admittedly, have got title and therefore, there is no question of transfer of title involved. It is also seen that the proceedings dated 12.05.2015 by which sub-division has taken place, stands as of now and it is an action by a public authority. Thus, looking from any angle, the approach of the respondents cannot be sustained in the eye of law.

5. Accordingly, the impugned order is hereby set aside. The respondents are directed to register and release the sale deed dated 13.07.2015 to the petitioner within a period of four weeks from the date of receipt of a copy of this order, subject to the condition that the petitioner is liable to pay the market value, if not paid already. Thus, it is made clear that if there is any stamp duty payable by the petitioner for the property forming the

subject matter of the sale deed dated 13.07.2015, towards the market value, the same is liable to be paid by the petitioner. The writ petition is allowed with the aforesaid observation. No costs. Connected M.P. is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

nv

To

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1 cc to M.M.V. Sivaroop, Advocate, sr. 37
1 cc to Government Pleader, Sr. 232

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