

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.22717 of 2016

M.G.Rahamathullah

.. Petitioner

Vs.

1.The Inspector General of Registration,
128 Santhome High Road,
Santhome, Chennai - 600 028.

2.The Sub Registrar,
Villivakkam, Chennai.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 2nd respondent to consider and dispose of the petitioner's representation dated 26.06.2015 and to forthwith release the document of Partition Deed registered as Document No.P201500097/1 on 18.05.2015 under Receipt No.20152834 to the petitioner in respect of the partitioned property situated at Korratur Village, Old Saidapet Taluk, now Ambattur Taluk, Tiruvallur District, comprised in Old Survey No.232/1, New Survey No.232/1A2, measuring 271/2 cents.

For Petitioner : Mr.K.Shahul Hameed

For Respondents : Mr.V.S.Ramesh
Government Advocate

O R D E R

By consent, the writ petition is taken up for final disposal.

2 The grievance expressed by the petitioner is that though the Family Partition Deed dated 15.05.2015 was registered as Document No.2518/2015, it has not been released so far and in this regard the petitioner submitted a representation dated 26.06.2015 to the respondents and since no orders have been passed, he came forward to file the present writ petition.

and Mr.V.S.Ramesh, learned Government Advocate who accepts notice on behalf of the respondents.

4 It is well settled position of law that once a document is registered, the registering authority or the officials concerned have no authority or jurisdiction to retain the documents. In similar facts and circumstances, this Court, vide judgment reported in 2002 [3] CTC 544 [B.Rajappa and another Vs. The Special Deputy Collector [Stamps], O/o.the Collectorate [V Floor], Singaravelar Maaligai, Rajaji Salai, Madras and 2 others] had given the following guidelines:-

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 Section 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 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."

5 In the light of the facts and circumstances, this Court directs the 2nd respondent to consider and dispose of the petitioner's representation dated 26.06.2015 on merits and in accordance and pass orders within a period of three weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

6 The writ petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

AP
To

1.The Inspector General of Registration,
128 Santhome High Road,
Santhome, Chennai - 600 028.

2.The Sub Registrar,
Villivakkam, Chennai.

1 cc to Mr.K.Shahul Hameed, Advocate, sr.37050
1 cc to Special Government Pleader, sr.37779

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