IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2016

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.23366 of 2016
And
W.M.P.No.20043 of 2016

A.Kaliyan ... Petitioner

Vs.

1 The Inspector General of Registration
Inspector General Office
No.120, Santhome High Road,
Chennai-600 026.

2 The Special Deputy Collector (Stamps)
Collectorate (District Collector's Office)
Cuddalore.

3 The Special Tahsildar (Stamps)
Taluk Office,
Villupuram.

4 The Sub Registrar
Registrar Office,
Sankarapuram. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent pertaining to Form-1 dated 19.09.2011 in Ci.Pa.No.431/2011-12 (San) & quash the same and consequently direct the respondents to release the Sale Deed dated 17.06.2011 bearing document No.2831/2011, before the 4th respondent in respect the lands situate at S.F.Nos.283/1B2 (New U.D.R. S.F.No.283/1B2A) & 283/1C (New U.D.R. S.F.No.283/1C1), Kattuvannanjur Village, Kallakurichi Taluk, Villupuram District by considering the judgment of this Honourable Court reported in 2008-3-CTC-614.

For Petitioner : Mr.P.Valliyappan

For Respondents : Mr.Govindasamy
Special Government Pleader

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 despite the fact that the agricultural lands admeasuring 1 acre 35 cents in S.F.No.283/1B2 and 80 cents in S.F.No.283/1C, Kattuvannanjur Village, Kallakurichi Taluk, Villupuram District was purchased under sale deed dated 17.06.2011 and also registered by the fourth respondent, it has not been returned on the pretext that the petitioner has to pay deficit stamp duty of Rs.2,84,560/-.

3.Mr.P.Valliyappan, learned counsel appearing for the petitioner has drawn the attention of this Court to the judgment of this Court reported in 2008 (3) CTC 614 (Tata Coffee Limited Vs. The State of Tamil Nadu and three others) and would submit that in the light of the ratio laid down in the above cited decision, the document registered by the fourth respondent is to be returned.

4.Per contra, Mr.Govindasamy, learned Special Government Pleader appearing for the respondents would submit that since the adjudication under Section 47 A (1) of the Indian Stamp Act is pending, the sale deed registered by the fourth respondent is not returned and prays for dismissal of the writ petition.

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

6.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:-
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> "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.""

7.The fourth respondent shall take note of the principles laid down in the above cited decision and release the registered sale deed bearing document No.2831/2011 dated 17.06.2011, within a period of two weeks from the date of receipt of a copy of this order.

8.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1 The Inspector General of Registration
Inspector General Office
No.120, Santhome High Road,
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Registrar Office,
Sankarapuram.

+1cc to Mr.P. Valliappan, Advocate, S.R.No.39442
+1cc to the Government Pleader, S.R.No.39319

BVR(CO)
EU(19/07/2016)

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