

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.23985/2016

R.Chithra

..Petitioner

Versus

- 1.The Inspector General of Registration
Santhome High Road, Mylapore
Chennai 600 004.
- 2.The District Revenue Officer [Stamps]
O/o.The District Collector,
5th Floor, M.Singaravelar Maligai
No.32, Rajaji Salai, Chennai 600 001.
- 3.The Sub Registrar
O/o.The Sub Registrar
Thiruvallur.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of mandamus directing the 2nd and 3rd respondents to return the sale deed dated 16.05.2013 registered as Document No.6741 of 2013 on the file of the 3rd respondent in respect of the property comprised in Survey No.500/1, 500/2 and 505/2 situate at Thirupper village, Thiruvallur Taluk and District to an extent of 1 acre and 46 cents of land based on the petitioner's application dated 26.03.2016.

For Petitioner : Mr.C.Prabakaran
For RR 1 to 3 : Mr.R.Vijayakumar, AGP

ORDER

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

2 The petitioner claims to have purchased the property comprised in Survey Nos.500/1, 500/2 and 505/2 situated in Thirupper Village, Thiruvallur Taluk, admeasuring to an extent of 1 acre and 45 cents through a registered Sale Deed bearing Document No.6741/2013 dated 16.05.2013,

registered on the file of the Sub Registrar, Thiruvallur. The grievance expressed by the petitioner is that despite registration, the document in question has not been handed over to the petitioner, apparently on the pretext that proceedings are pending under section 47-A [1] of the Indian Stamp Act.

3 The learned counsel for the petitioner would submit that once the document is registered, the 3rd respondent cannot withhold the document and prays for appropriate orders.

4 This Court heard the submissions of Mr.R.Vijayakumar, learned Additional Government Pleader who accepts notice on behalf of the respondents.

5 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."

6 In the light of the ratio laid down in the above cited decision, the 3rd respondent is directed to follow the guidelines and release the document bearing No.6741/2013 dated 16.05.2013 within a period of two weeks from the date of receipt of a copy of this order.

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

Assistant Registrar,

//True Copy//

Sub Assistant Registrar

AP
To

1.The Inspector General of Registration
Santhome High Road, Mylapore
Chennai 600 004.

2.The District Revenue Officer [Stamps]
O/o.The District Collector,
5th Floor, M.Singaravelar Maligai
No.32, Rajaji Salai, Chennai 600 001.

3.The Sub Registrar
O/o.The Sub Registrar
Thiruvallur.

+1 C.C. to Mr.C.Prabhakaran ,Advocate SR.No.39070
+1 C.C. to Government Pleader SR.No.39321.

W.P.No.23985/2016

RK

SM 28/07/2016

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