IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.2509 of 2016

P.J.Prabhakar HUF,
Rep.by its Kartha P.J.Prabhakar ... Petitioner

Vs.

1. The State of Tamil Nadu,
   rep. by the Inspector General of Registration,
   Santhome, Chennai-28.

2. The District Revenue Officer (Stamps),
   District Collectorate's Office,
   M.Singaravelar Maaligai,
   Chennai-1.

3. The Sub Registrar,
   Thirupporur,
   Kancheepuram District. ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents 2 and 3 to release the sale deed dated 6.2.2015 registered as document No.1763/2015 in Book I, in the office of the third respondent herein pending final disposal of the alleged deficit stamp duty thereof.

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For Petitioner : Mr.D.Shivakumaran

For Respondents : Mr.S.Pattabiraman,
Government Advocate

ORDER

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

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents 2 and 3 to release the sale deed dated 6.2.2015 registered as document No.1763/2015 in Book I, in the office of the third respondent herein pending final disposal of the alleged deficit stamp duty thereof.

3. The case of the petitioner, in brief, is as follows:-

(a) The petitioner's HUF purchased a land measuring to an extent of 1 acres and 15 cents comprised in Old Punjai S.No.403/3 part, patta No.1777, as per patta new S.No.403/3B, situated at No.43, Padur Village, Thiruporur Taluk, Kancheepuram District, under a sale deed dated 6.2.2015 registered as document No.1763 of 2015 in the office of the Sub Registrar, Thiruporur, the third respondent herein, for a total sale consideration of Rs.2,70,25,000/- which is the prevailing market price in the locality, from one Nikhil Shroff. Accordingly, the stamp duty of Rs.18,91,750/- was paid by the petitioner and he has also paid the registration fee of 1% of the total sale consideration viz., Rs.2,70,250/-. On presentation of the documents for registration, the third respondent assigned document number as 1763 of 2015. But, he did not release the document after registration by taking a view that the property was undervalued and adequate stamp duty was not paid as per the prevailing guideline value on the date of registration. As required under Section 47-A(1) of the Indian Stamp Act, the third respondent did not send the document to the second respondent for nearly three months.

(b) Thereafter, at the instance of the second respondent, the Tahsildar made site inspection on 11.5.2015. After that, the second re-fixed the valuation of the petitioner's property at Rs.2,50,000/- per cent and called upon the petitioner to pay a sum of Rs.1,20,750/- towards the deficit stamp duty. The petitioner has also remitted the amount into the account of the second respondent at Reserve Bank of India through challan dated 15.5.2015. The petitioner is also ready and willing to pay the deficit registration fee of 1% on the re-fixed value arrived at by the second respondent viz., Rs.2,50,000/- per cent. But, the third respondent is not ready to receive the deficit registration fee and release the document.

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(c) When the petitioner approached the third respondent to pay the deficit registration fee, for the first time, the third respondent has orally informed him that the re-fixation of the value of the property at the rate of Rs.2,50,000/- per cent fixed by the second respondent is incorrect and the same ought to have been valued at Rs.850/- per sq.ft. Once the Collector, the second respondent herein, who is the competent authority superior to the third respondent, has revalued the property, the only course that may be opened to the third respondent is to receive the same. Hence, the petitioner sent a representation dated 17.7.2015 to the third respondent requesting him to receive the deficit registration fee of 1% on the refixed value. But, the third respondent has not received the remittance when he offered the same. In the meantime, the petitioner received a notice dated 3.5.2015 from the second respondent in Form-2, Rule 6 of the Tamil Nadu Stamp (Prevention of Under Valuation of Instruments) Rules, 1968, only on 17.10.2015. Hence, the petitioner has come up with the present writ petition seeking a direction to the respondents 2 and 3 to release the sale deed dated 6.2.2015 registered as document No.1763/2015 in Book I, in the office of the third respondent.

4. It is the main submission of the learned counsel appearing for the petitioner that if the third respondent has a doubt with regard to the value of the property, as per Section 47-A of the Indian Stamp Act, he may, after registering the document, refer the same to the competent authority for ascertaining the correct market value of the property. He has further submitted that if the third respondent intends to refer the matter to the second respondent under Section 47-A of the Indian Stamp Act, he can release the document after making necessary endorsement on the same. In support of his contention, he has relied upon various judgments of the learned Single Judge as well as Division Bench of this Court, wherein this Court has directed the registering authority to register and release the document with an endorsement that the release of the document would be subject to further proceedings that may be initiated under the provisions of the Indian Stamp Act. Thus, he sought for release of the document in question.

5. I have also heard the learned Government Advocate, who has taken notice on behalf of the respondents.

6. Considering the facts and circumstances of the case and considering the dictum laid down by this Court, this Court is of the opinion, that the third respondent has no right to retain the document and there is no provision under the Indian Stamp Act empowering the registering authority to retain the document after registration.

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7. Hence, the third respondent is directed to release the sale deed dated 6.2.2015 registered as document No.1763/2015 in Book I, pending on his file, with an endorsement that the release of the document would be subject to further proceedings that may be initiated under the provisions of the Indian Stamp Act. The said exercise shall be carried out within a period of two weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sbi

To

1. The Inspector General of Registration,
   State of Tamil Nadu,
   Santhome, Chennai-28.

2. The District Revenue Officer (Stamps),
   District Collectorate's Office,
   M.Singaravelar Maaligai,
   Chennai-1.

3. The Sub Registrar,
   Thirupporur,
   Kancheepuram District.

+1cc to Mr.D.Shivakumaran, Advocate, S.R.No.7859
+1cc to the Government Pleader, S.R.No.7549

W.P.No.2509 of 2016

MP(CO)
CA(16/02/2016)

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