

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2016

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE DR. JUSTICE P. DEVADASS

W.A. No.65 of 2016 and C.M.P. No.704 of 2016

- 1 The Inspector General of Registration
Santhome
Chennai 600 004
 - 2 The District Revenue Officer (Stamps)
Singaravelan Maligai
Rajaji Salai
Chennai 600 001
 - 3 The Sub-Registrar
O/o the Sub-Registrar
Red Hills, Chennai
- Appellants/Respondents
- Vs.
- M. Jayalakshmi
- Respondent/Petitioner

Writ Appeal preferred under Clause 15 of the Letters Patent against the order dated 09.02.2015 made in W.P. No.2808 of 2015 filed under Article 226 of the constitution of India praying to issue a writ of mandamus to direct the respondents to accept the stamp duty paid by the petitioner on the settlement deed dated 31.03.2005 registered as Doc.No.1721/2005 on the file of the 3rd respondent and return the document to the petitioner.

For appellants Mrs. A. Srijayanthi
Special Government Pleader

JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

The challenge in this intra-Court appeal is to the order dated 09 February 2015 passed in W.P.No.2808 of 2015.

2 For the sake of brevity and clarity, the parties are referred to as per their rank in the instant appeal.

3 The respondent preferred the instant writ petition being W.P.No.2808 of 2015, seeking a direction to the appellants to accept the stamp duty paid by her on the settlement deed dated 31 March 2005 registered as Doc.No.1721/2005 on the file of the third appellant and return the document to her.

4 The learned Single Judge, noticing the fact that the document in question has already been registered, held that the third appellant has no jurisdiction to retain the same, even if the document has been referred under Section 47-A of the Indian Stamp Act, 1899 (for short "the Act") to ascertain the correct value of the property and disposed of the writ petition directing the third appellant to release the registered document to the respondent with an endorsement that proceedings under Section 47-A of the Act is pending and the same has not been disposed of till date.

5 It is a well settled principle of law that once a document has been duly registered, the same cannot be retained by the Registering Authority, even if the same has been referred for a fresh adjudication or for ascertainment of the correct value of the property, as in the case on hand. The learned Single Judge had directed return of the said document to the respondent, subject to the aforestated condition. We have examined the said condition. The said condition provides sufficient safeguard to ensure recovery of fee, if any, as and when occasion arises.

In that view of the matter, we are not inclined to interfere with the order sought to be impugned herein. Accordingly, the writ appeal is dismissed. However, there shall be a charge over the property in question till the proceedings initiated under Section 47-A, *ibid*, is complete. No costs. Connected Miscellaneous Petition is dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

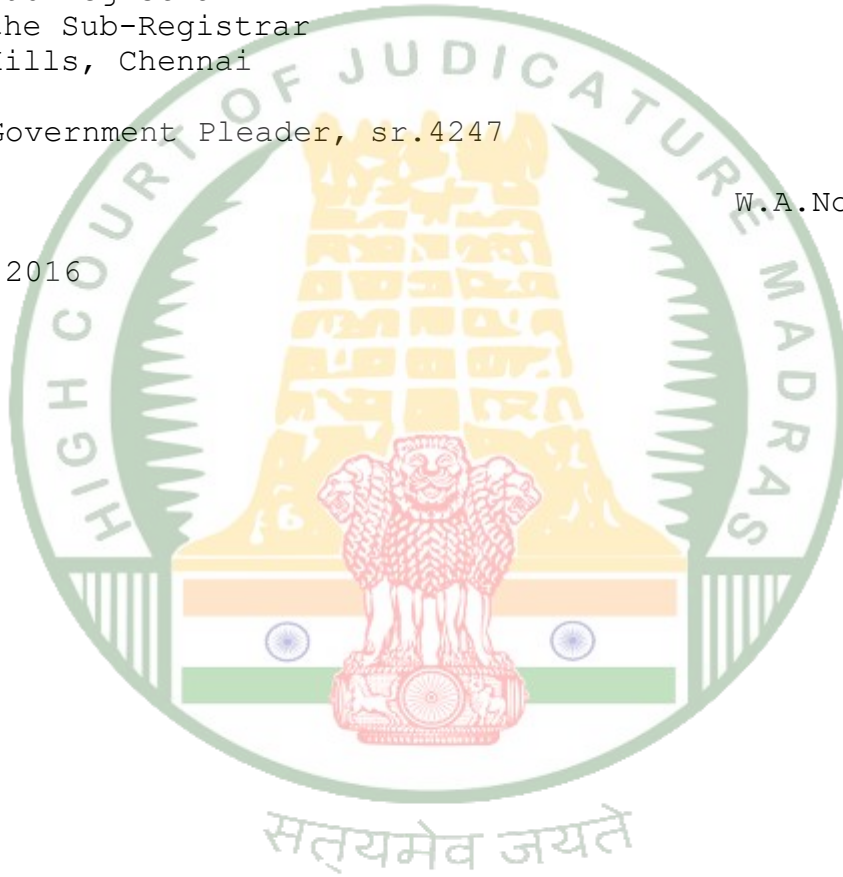
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To

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Red Hills, Chennai
- +1 cc to Government Pleader, sr.4247

W.A.No.65 of 2016

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