

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.28662 of 2016

Mrs.C.Maalathi

... Petitioner

Vs.

The Joint Sub Registrar, 1,
K - 9/3, Coonur Road, Ooty: 643001. Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to return the registered Sale Deed Doc.No.1086 of 2016 dated 29.07.2016.

For Petitioner : Ms.Swarnalatha Mahesh
For Respondent : Mr.A.N.Thambidurai
Special Government Pleader

O R D E R

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

2.The petitioner has presented a sale deed before the respondent and it was registered as document no.1086 of 2016 dated 29.07.2016 and it is also reflected in the Encumbrance Certificate dated 03.08.2016. The grievance expressed by the petitioner is that despite the registration of the sale deed by the respondent, it has not been returned to her so far and in this regard, has also submitted a representation dated 04.08.2016 and since no response is forthcoming, came forward to file this writ petition.

3.The learned counsel appearing for the petitioner has drawn the attention of this Court to Sections 52, 59, 60, 61 of the Registration Act, 1908 and also to a judgment of this Court reported in 2003 - 4 - L.W. 319 (Ramaswamy Versus The Inspector General of Registrations, Santhome, Madras and two others) and would submit that once a document is registered, the respondent cannot refuse to release the same and prays for appropriate orders.

4.This Court also heard the submissions of Mr.A.N.Thambidurai, learned Special Government Pleader who

accepts notice on behalf of the respondent and would submit that since proceedings under Section 47 A of the Indian Stamp Act, 1899 is likely to be contemplated, the document is not returned.

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

6.In similar facts and circumstances, this Court in the 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] has issued the following directions:

"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."

16. Before parting with the case, with heavy heart, this Court has to point out that neither the State Government nor the Chief Controlling Authority had intimated about the law laid down by the Division Bench of this Court and the Registrars have been flouting the dicta laid down by this Court with impunity. Such violations are per se contemptuous. This Court pointed out this to the learned Advocate General, who in turn relied upon certain circulars issued, but they are not towards compliance with pronouncements and in conformity with the judgment of the Division Bench. However, this Court takes a lenient view in this respect, in view of the fair stand taken and explanation offered by the learned Advocate General.

17. This Court directs that the Inspector General of Registration shall issue a circular setting out the directions issued by this Court to all the Registrars in the State and procedure to be followed by drawing their attention to the law laid down by the above pronouncements and that any infraction by any of the Registrars will be viewed seriously."

7. This Court in the light of the above facts and circumstances directs the respondent to take note of the judgment of this Court 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], especially, paragraph no.15 and pass appropriate orders, in accordance with law as to the release of the registered sale deed bearing document No.1086 of 2016 dated 29.07.2016, within a period of two weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

8. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar

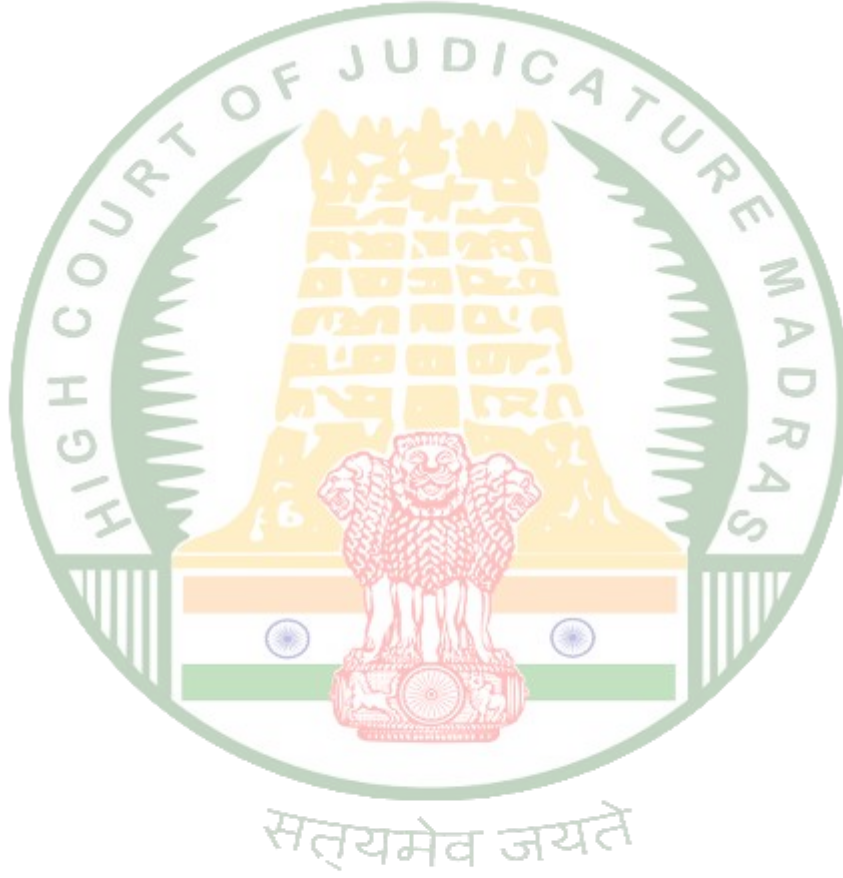
To

The Joint Sub Registrar, 1,
K - 9/3, Coonur Road, Ooty: 643001.

+1 cc to Mr.S.mahesh,advocate,sr.46777.

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krd 19/8

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