

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2016

CORAM

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

W.P.No.29827 of 2016

S.Thulasi

...Petitioner

-Vs-

1.The Secretary,
Revenue Department,
Govt. of Tamil Nadu,
Office of the Secretariat, Chennai – 600 009.

2.The Inspector General of Registration,
Office of the Inspector General of Registration,
Chepauk, Chennai – 600 005.

3.The Special Deputy Collector (Stamps)
Office of the Special Deputy Collector Office,
Vellore Collector Office Campus,
Room No.118, First Floor,
Sathuvachery, Vellore – 9.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the third respondent to dispose the representation of the petitioner dated 18.07.2016.

For Petitioner : Mr.S.Mohana Murali

For Respondents : Mr.A.N.Thambidurai,

Special Government Pleader

ORDER

This writ petition was posted before this Court today as the earlier order dated 29.08.2016 was recalled by order dated 31.08.2016. The order dated 29.08.2016 is restored.

2. By consent, this Writ Petition is taken up for final disposal.

3. The petitioner claims that she purchased four house sites through a different registered sale deeds bearing document Nos.2158/2014 and 2159/2014 dated 16.07.2014, registered on the file of the office of the Sub Registrar, Walajapet and despite the registration of the same, documents are yet to be returned and in this regard, she made a representation dated 18.07.2016 to the respondents and since no orders have been passed, came forward to file this Writ Petition.

4. The learned counsel appearing for the petitioner would submit that once the documents have been registered, the Sub Registrar, Walajapet has no jurisdiction to retain the document and prays for appropriate orders.

5. Heard the submission of Mr.A.N.Thambidurai, learned Special Government Pleader, who accepts notice on behalf of the respondents.

6. A single bench of this Court in the judgment reported in **2002 (3) CTC 544 [B.Rajappa and another Vs. The Special Deputy Collector (Stamps)]** has considered the very same issue and in paragraph Nos.15 has given the following guide lines and it is relevant to extract paragraph Nos.15 and 17 of the said order, which reads as follows:

"5.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 Sections 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 the 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.....

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. In the light of the above facts and circumstances and without going into the merits of the same, this Court directs the Sub Registrar, Walajapet to take into consideration the above cited judgment and pass orders on the representation dated 18.07.2016 submitted by the petitioner in accordance with law within a period of

four 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.

Index : Yes/No
Internet: Yes
kua

08.09.2016

Note: Registry is directed to mark a copy of this order to the Sub Registrar, Walajapet.

B. RAJENDRAN, J.

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To

- 1.The Secretary,
Revenue Department,
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Chennai – 600 009.
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