IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.10.2016

CORAM

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P. No.29980 of 2016

Rajesh Dhariwal .. Petitioner

Vs.

1. The Chief Controlling Revenue Authority,
   -cum- Inspector General of Registration,
   (Appellate Authority),
   Registration Department,
   Santhome, Chennai - 28.

2. The District Revenue Officer (Stamps),
   Collector's Office Complex,
   Singaravelar Maligai,
   No.32, Rajaji Salai, Chennai - 600 001.

3. The Sub-Registrar,
   Sriperumbudur,
   Kancheepuram District. .. Respondents

PRAYER : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the third respondent to release the sale deed dated 05.12.2007 registered as Doc.No.23810 of 2007.

For Petitioner : Mr. Ras. Senthilvel
For Respondents : Mr.KAS Senthilvel
Additional Government Pleader

O R D E R

This Writ Petition has been filed to direct the third respondent to release the sale deed dated 05.12.2007 registered as Doc.No.32810 of 2007.

2. The case of the petitioner is that the petitioner had purchased a vacant land measuring 16461 sq.ft. in S.No.183/4 of Irungattukottai Village, Sriperumpudur Taluk, Kancheepuram vide sale deed dated 05.12.2007. The petitioner after ascertaining

the guideline value from the third respondent, valuing the property at Rs.55/- per Sq.ft., the petitioner purchased the stamp pater for Rs.72,432/-. After the registration of the said document, the third respondent fixed a sum of Rs.200/- per sq.ft. as Market Value of the said property and referred the matter under 47-A of Indian Stamp Act to the second respondent. The second respondent directed the petitioner to pay the difference stamp duty for the above sale deed pertaining to the said property. Aggrieved over the order of the second respondent, the petitioner had preferred an appeal and the same is pending. Even though the petitioner has paid the required stamp fees as per the guidelines of the Government, the third respondent has not released the document to the petitioner and hence, the present Writ Petition has been filed.

3. Today, when the matter was taken up, the learned counsel for the respondent produced the records to show that the 47 proceedings were conducted and final orders have been passed and submitted that in the 47(A) proceedings initiated by the second respondent, no notice has been issued to the petitioner and hence, he has preferred an appeal against the order of the second respondent.

4. The grievance of the petitioner is that the even though the petitioner has paid the required stamp fees, his document registered as Document No.23810 of 2007 dated 05.12.2007 has not been released by the third respondent. The learned counsel for the petitioner relied upon the Judgement of this Court in 2008 (3) CTC 614 and submitted that the retention of the document after registration on the ground of pendency of civil proceedings cannot be done. He would also rely upon the Judgement of this Honourable Court in 2008(1) MLJ 825 for the proposition that the Registrar is not vested with the power to retain the document after the registration of the said document. His power is only to make an endorsement on the registered document regarding valuation and refer the matter to the collector and return the document to the person entitled to receive such document.

5. Considering the submissions of the learned counsel for the petitioner and in view of the judgements of this Court, the document registered in document No.23810 of 2007 dated 05.12.2007 may be released to the petitioner subject to the following conditions :

(i) The Registering Authority while releasing the documents shall make necessary endorsement on the original documents to the effect that the proceedings under Section 47-A of the Act are pending.

(ii) The Registering authority shall make necessary entries in the register maintained regarding the pendency of 47-A proceedings in respect of the documents subject matter of the registration so as to reflect the same in the Encumbrance Certificate for the benefit of the purchasers.

(iii) Pending final decision in respect of the valuation under section 47-A(i), as per Section 47-A(4) there shall be a charge over the properties in favour of the Government in respect of the unpaid value of the stamp duty.

(iv) After the entire proceedings under section 47-A are completed, on production of the original documents by the petitioner, the Registering Authority shall make necessary endorsement removing the earlier endorsement clearly stating that the entire amount of stamp duty under the documents have been paid in full and return the same.

(v) After such endorsement, the Registering Authority shall make necessary entry of the completion of 47-A proceedings in the register maintained by them so as to reflect the same in the Encumbrance Certificate."

6. With the above direction, this Writ Petition is disposed of. No Costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vrc

1. The Chief Controlling Revenue Authority,
-cum- Inspector General of Registration,
(Appellate Authority),
Registration Department,
Santhome, Chennai - 28.

2. The District Revenue Officer (Stamps),
Collector's Office Complex,
Singaravelar Maligai,
No.32, Rajaji Salai, Chennai - 600 001.

3. The Sub-Registrar,
Sriperumbudur,
Kancheepuram District.

+1cc to Mr.A. Ilaya Perumal, Advocate, S.R.No.58476

ak (CO)
md (9/11/2016)

W.P. No.29980 of 2016