

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.30675 of 2016

D.Rajeswari

... Petitioner

Vs

The Sub Registrar
O/o.The Sub Registrar
Avadi, Chennai.

.... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the respondent to return the original sale deed after completing the registration formalites dated 05.11.2009 vide Deed of Sale pending Doc.No.P200900081 of 2009 and assigned as Docu.No.9600/2009 owned by the petitioner within a reasonable time.

For Petitioner : Mr.S.Varanesh

For Respondent : Mr.S.Navaneethan,
Additional Government Pleader

ORDER

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

2. The petitioner would state that though the Sale Deed in respect of the land admeasuring to an extent of 2433 sq.ft., in Plot No.16, situate at Vellanur village, Ambattur Taluk, Tiruvallur District, was registered as Document No.9600/2009 by the respondent ; it is yet to be returned and hence, the petitioner came forward to file the present writ petition.

3. The learned counsel for the petitioner would submit that once the document is registered, the respondent cannot retain the same and prays for appropriate orders.

4. This Court heard the submissions of Mr.S.Navaneethan, learned Additional Government Pleader who accepts notice on behalf of the respondent.

5. It is well settled position of law that once a document is registered, the registering authority or the officials concerned have no authority or jurisdiction to retain the documents. In similar facts and circumstances, this Court, vide 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] had given the following guidelines:-

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."

6. This Court, in the light of the above facts and circumstances, directs the respondent to take note of the above cited judgment and pass orders in accordance with law, 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.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

AP

To

The Sub Registrar
O/o.The Sub Registrar
Avadi, Chennai.

+1cc to Mr.S.Varanesh, Advocate, S.R.No.50002
+1cc to the Government Pleader, S.R.No.50167

W.P.No.30675 of 2016

KGK(CO)
CA(21/09/2016)

सत्यमेव जयते

WEB COPY