IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2016

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH

W.P. No.3374 of 2016

Veekesy Foot Care (India) Pvt. Ltd.,
Rep by its Managing Director,
Mr. V.Noushad ... Petitioner

Vs.

The Sub Registrar,
Madukkarai, Madukkarai Taluk,
Coimbatore. ... Respondent

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the respondent to register the Sale Deed dated 22.05.2015 bearing Document No. P18/2568 of 2015 executed by the Federal Bank, Cherthala Branch, Alappuzha District, Kerala in favour of the writ petitioner company and release the same to the writ petitioner company as per provision of Section 47A of Indian Stamp Act.

For Petitioner : Dr.C.Ravichandran.

For Respondent : Mr.V.Subbiah.
Spcl. Govt. Pleader

O R D E R

The petitioner, pursuant to the sale deed dated 22.05.2015 applied for registration, but the same has been kept pending in document No. P18/2568 of 2015, admittedly, on the ground that there is a deficit stamp amount due and payable. It is further stated that on non-compliance of the same, the matter would be taken up under Section 47(1)(A) of the Indian Stamp Act. As the registration of the sale deed is still pending before the respondent, the present writ petition has been filed by the petitioner before this Court.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondent.

3. As rightly submitted by the learned counsel appearing for the petitioner, the determination and consequential demand of the stamp duty would not stand in the way of registering the document and releasing the same thereafter.

4. The order passed by this Court in a similar writ petition being W.P. No. 4249 of 2015, dated 19.02.2015, reads as follows;

> ''3. It is settled legal position that merely on the ground that document has been referred under Section 47(A) of the Act, or there is a proposal to refer is not a reason to retain the registered document. In fact, this issue was considered by this Court in several cases, wherein a direction has been issued to the registering authority to release the document subject to the provisions under Section 47(A) of the Stamp Act. At this stage, it is useful to refer to the decision (Sub Registrar, Registration Department Vs. R. Rama) reported in (2008) 1 MLJ 825 An identical issue arose for consideration before this Court in W.P.No.8585 of 2010 dated 26.04.2010, wherein, directions were issued to the Sub Registrar to return the sale deed subject to certain conditions and the same is extracted hereunder;
>
> "(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 proeprties 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."

4. In the light of the above, there will be a direction to respondent to return the sale deed bearing document No.4766/2014 registered on 10.12.2014 within a period of two weeks from the date of receipt of a copy of the order 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.".

5. Accordingly, it is left open to the respondent to refer under Section 47(A) of the Indian Stamps Act and to proceed with the matter in accordance with law. The petitioner is directed to co-operate with the enquiry, which may be fixed by the competent authority under Section 47(A) of the Indian Stamp Act.

With the above direction, this Writ Petition is disposed of. No costs.''

6. In the light of the above order, the present writ petition is disposed of on similar terms. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rms

To

The Sub Registrar,
Madukkarai, Madukkarai Taluk,
Coimbatore.

+1cc to Mr.Ravichandran, Advocate, S.R.No.5552

+1cc to the Government Pleader, S.R.No.6121

RSY(CO)
EU(03/02/2016)

W.P.No. 3374 of 2016