

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.3689 of 2016

and

WMP.No.3039 of 2016

Rajendran Chingaravelu
rep. by power agent
Subramani

... Petitioner

vs.

1.The Inspector General of Registration,
Office of the Inspector General of Registration,
No.100, Santhome High Road,
Chennai 600 028.

2.The Sub Registrar,
Sub Registrar office,
No.36, Orandiamman Koil Street,
Velacheri, Chennai 600 042.

.... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the second respondent to release the sale deed dated 19.11.2015 registered as Document No.07514 of 2015 with the office of the Sub Registrar, Velachery namely the second respondent.

For Petitioner : Ms.S.Harinyi for M/S.Giridhar
and Sai

For Respondents : Mr.P.Sanjay Gandhi
Additional Government Pleader

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the second respondent to release the sale deed dated 19.11.2015 registered as Document No.07514 of 2015 with the office of the Sub Registrar, Velachery.

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

respondents.

3. According to the petitioner, he purchased a property measuring an extent of 2000 sq.ft. in New Patta No.13315 and New Survey Nos.88/34A and 88/34C (Old S.No.88/2 and Paimash No.1298/4), Moolakothalam Varisai Thakku (No.26/4) situated at No.154, Madipakkam Village, Sholinganallur Taluk, Kancheepuram District from one Sughantha Seetharaman vide sale deed dated 19.11.2015 registered as Document No.07514 of 2015 on the file of the Sub Registrar Office, Velachery i.e., the second respondent herein, which was duly reflected in the encumbrance certificate. Thereafter, the petitioner went to the office of the second respondent and sought for the original registered sale deed. But the second respondent retained the document and refused to return the same to the petitioner on the ground that the same was referred to the Collector under Section 47A of the Stamp Act. However, no action was taken by the second respondent as per law. Therefore, the petitioner made a representation dated 18.12.2015 to the second respondent seeking return of the original registered document. Since no order has been passed by the second respondent, the petitioner has filed the present writ petition for the above stated relief.

4. Learned counsel for the petitioner submitted that the second respondent, while exercising his power under section 47A of the Stamp Act, by referring the valuation of market value to the Collector, does not have any power to retain the document, which has been registered. In support of his contention, he relied on the order of this Court reported in MANU/TN/1423/2015 in the case of N.Nallammal v. the Special Deputy Collector (Stamps), Salem, wherein, this Court placed reliance on the decision reported in 2008(3) CTC 614 (Tata Coffee Limited, Bangalore v. The State of Tamil Nadu by the Secretary to Government, Commercial Taxes & Registration, Chennai-9 and three others) and directed the authorities to release the documents, without prejudice to the proceedings initiated under Section 47A of the Act, subject to making necessary endorsement in the said documents.

5. It is a settled legal position that the respondents viz., the Registering authorities are not entitled to retain any document solely on the ground that there is a dispute pending as regards the valuation of the document and the stamp duty to be paid.

6. In view of the above, following the aforesaid decision, the respondents are directed to release the document pertaining to the petitioner registered as Document No.07514 of 2015 on the file of the second respondent, by making an endorsement in the form of affixing seal indicating that reference under section 47A with respect to under valuation and

assessment of stamp duty payable is pending before the second respondent and thereafter issue notice to the petitioner to participate in the enquiry and pass a reasoned order on merits and in accordance with law after following the due process of law under the Indian Stamp Act. It is made clear that the document shall be returned to the petitioner with necessary endorsement as directed above.

7. The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Inspector General of Registration,
Office of the Inspector General of Registration,
No.100, Santhome High Road,
Chennai 600 028.
- 2.The Sub Registrar,
Sub Registrar office,
No.36, Orandiamman Koil Street,
Velacheri, Chennai 600 042.

+1cc to M/S.Giridhar & Sai, Advocate, S.R.No.8169

W.P.No.3689 of 2016

sai (CO)
srg (23/02/2016)

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