

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.5107 of 2016

R.Kalaiselvi,
Rep. by her General Power of Attorney Agent,
M/s.Jubilee Plot and Housing Pvt. Ltd.,
Rep. by its authorised signatory,
M.R.Narayanasamy .. Petitioner

Vs.

1. The Special Deputy Collector (Stamps),
Office of the District Collector,
Vellore-5, Vellore District.
2. The Sub-Registrar,
Office of the Sub-Registrar,
Wallajah Nagar, Vellore District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents 1 and 2 to return the sale deed, dated 05.09.2012 registered as Document No.6748 of 2012 on the file of the SRO, Walajah Nagar, Vellore, the second respondent herein, within the period stipulated by this Court.

For Petitioner : Mr.M.Vivekanandan

For Respondents : Mr.M.Dig Vijay Pandian, Addl.G.P.

ORDER

The petitioner has filed this Writ Petition for issuance of a Writ of Mandamus to direct the respondents 1 and 2 to return the sale deed, dated 05.09.2012 registered as Document No.6748 of 2012 on the file of the SRO, Walajah Nagar, Vellore, the second respondent herein, within the period that may be stipulated by this Court.

2. In the affidavit filed in support of the Writ Petition, the petitioner stated that she purchased the property from one Shaik Shahjahan on 05.09.2012, vide sale deed, before the second respondent-Sub-Registrar and the sale deed was registered in

Document No.6748 of 2012. It is the grievance of the petitioner that the second respondent refused to return the registered sale deed, even though the petitioner has complied with all the pre-requisites of registration. Hence, the petitioner has made a representation, dated 17.06.2015 to the second respondent to return the registered sale deed, for which, it was orally informed to the petitioner that document was referred under Section 47-A of the Indian Stamp Act and enquiry in that regard is pending. Hence, the petitioner has filed this Writ Petition for the above relief.

3. Learned counsel for the petitioner relied on a decision of this Court reported in 2002 (3) CTC 544 (Rajappa.B. Vs. The Special Deputy Collector (Stamps)), wherein this Court has issued the following directions with regard to the enquiry pending under Section 47-A of the Indian Stamp Act:

"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 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 proceedings 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."

4. Following the above said order of this Court, the respondents herein are directed to return the said sale deed, dated 05.09.2012, within a period of two weeks from the date of receipt of a copy of this order, by making necessary endorsement on the document with regard to the pendency of proceedings under Section 47-A of the Indian Stamp Act and the respondents are also directed to follow the other directions issued by this Court in the said order.

5. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

cs

To

1. The Special Deputy Collector (Stamps),
Office of the District Collector,
Vellore-5, Vellore District.
2. The Sub-Registrar,
Office of the Sub-Registrar,
Wallajah Nagar, Vellore District.

1 cc to M/s. M. Vivekanandan, Advocate, Sr. 9312

1 cc to Government Pleader, Sr. 9142

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