IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2016

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.Nos.6549 & 6550 of 2016 &

W.M.P.Nos.5828 & 5829 of 2016

N.Periyannan ... Petitioner in both writ petitions

Vs.

1. The Inspector General of Registration,
Inspector General Office,
No.120, Santhome High Road,
Chennai-600 026.

2. The Special Deputy Collector (Stamps),
III Floor,
Collectorate (District Collector's Office),
Salem-636 001.

3. The Special Tahsildar (Stamps),
Taluk Office,
Trichy Main Road,
Namakkal.

4. The Sub Registrar,
Joint II Sub Registrar Office,
Taluk Office Campus,
Mohanur Road,
Namakkal. ... Respondents in both writ petitions

Prayer in WP 6549 of 2016 : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified mandamus, to call for the records of the 2nd respondent pertaining to Form 1 dated 31.07.2014 in Cl.Pa.No.2831/2014 NKL SDC and quash the same and consequently direct the respondents to release the sale deed dated 5.4.2013 bearing document No.1792/2013, pending before the 4th respondent in respect of the lands situate at S.F.Nos.524/4 and 524/5 Lathuvadi village, Namakkal taluk by consideration petitioner's representation dated 28.12.2015 and the judgment of this Court in "Tata Coffee Limited versus the State of Tamil Nadu" reported in 2008-3-CTC-614.

Prayer in WP 6549 of 2016 : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified mandamus, to call for the records of the 2nd respondent pertaining to Form 1 dated 31.07.2014 in Cl.Pa.No.2832/2014 NKL SDC and quash the same and consequently direct the respondents to release the sale deed dated 5.4.2013 bearing document No.1793/2013, pending before the 4th respondent in respect of the lands situate at S.F.Nos.520/1A, 520/1B, 520/1B, 520/1D, 521/1 and 521/2, Lathuvadi village, Namakkal taluk by consideration petitioner's representation dated 28.12.2015 and the judgment of this Court in "Tata Coffee Limited versus the State of Tamil Nadu" reported in 2008-3-CTC-614.

For Petitioner : Mr.P.Valliappan

For Respondents: : Mr.V.JayaPrakash Narayanan
Special Government Pleader

COMMON ORDER

Challenging the proceedings of the second respondent, dated 31.7.2014 in and by which, the petitioner has been directed to pay deficit stamp duty in respect of the sale deeds bearing document Nos.1792 and 1793, the petitioner has come forward with the present writ petitions with consequent prayer to release the said sale deeds.

2. According to the petitioner, he purchased agricultural lands with poultry shed and ACC roofing to an extent of 2.96 acres in S.F.Nos.524 and 524/5 and 6.73 acres in S.F.Nos.520/1A, 520/1B, 520/1B, 520/1D, 521/1 and 521/2, Lathuvadi village, Namakkal taluk by way of sale deeds, dated 5.4.2014 bearing document Nos.1792 and 1793 of 2013 and he also paid Rs.2,80,000/- and 11,20,000/- towards stamp duty as per guideline value. The grievance of the petitioner is that the 4th respondent after registering the sale deeds, referred the same under Section 47(A)(1) of the Registration Act, 1908 to the second respondent, who in turn sent Form-1, dated 31.07.2014 received by him on 09.8.2014, claiming deficit stamp duty and withhold the sale deeds without releasing the same after registering the same.

3. The learned counsel appearing for the petitioner would submit that the procedure adopted by the second respondent for ascertaining the proper stamp duty payable is improper since he has not taken into consideration the correct guideline value and

further, no opportunity was given to the petitioner. He has relied upon a decision reported in "Tata Coffee Limited versus the State of Tamil Nadu" reported in 2008-3-CTC-614 and contended that the registering authority is not empowered to withhold the document after registration.

4. Heard both sides and perused the entire materials available on record.

5. In identical circumstances, this Court rendered a decision reported in "Tata Coffee Limited versus the State of Tamil Nadu" reported in 2008-3-CTC-614, wherein, this Court has held that the retention of the original document after completion of the registration of the instrument is not provided for either in Indian Stamp Act or in the Registration Act and it would be just and proper, if the Registering Authority at the time of release of original documents, makes an endorsement to the effect that a reference under Section 47-A of the Act has been made, with respect to the instrument is concerned to the Collector and making appropriate entry in the registers, if any kept by him. While rendering so, this Court has also followed the decision of this Court reported in "B.Rajappa and another versus the Special Deputy Collector (Stamps) and others" reported in 2002(3) CTC 544, wherein certain directions were issued to be followed while returning documents after registration and thereafter when proceedings under Section 47-A are terminated, which are as follows:

> "15. While appreciating the anxiety expressed on behalf of the State by the learned Advocate General, this Court directs that-
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> 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 undervaluation 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.
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> 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.
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> iii) On completion of adjudication as to the undervaluation 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."

Following the above, these Writ Petitions are disposed of on the above terms. The second respondent is directed to consider the representation dated 28.12.2015 of the petitioner and after affording an opportunity to the petitioner, pass appropriate orders in the light of the above, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected WMPs are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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+2 ccs to Mr.P.Valliappan Advocate sr.16084

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