

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.7199 of 2016

and

WMP.No.6388 of 2016

1.Pritam Kukillaya

2.Subhashri Kukillaya

... Petitioners

vs.

1.The District Collector,
Chennai District,
Office of the District Collector,
5th Floor, M.Singaravelar Maligai,
No.32, Rajaji Salai, Chennai 600 001.

2.The District Revenue Officer (Stamps),
Office of the District Collector,
5th Floor, M.Singaravelar Maligai,
No.32, Rajaji Salai, Chennai 600 001.

3.The Sub Registrar,
Sub Registrar's office,
Mylapore, Chennai 600 004.

.... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents herein to return the registered sale deed, bearing Document No.1660 of 2015 dated 04.06.2015 on the file of the third respondent herein within a time frame that may be fixed by this Court.

For Petitioner : Mr.K.Elango

For Respondents : Mr.S.Pattabiraman, GA

ORDER

The petitioners have come up with the present writ petition for a mandamus, directing the respondents herein to return the registered sale deed, bearing Document No.1660 of 2015 dated 04.06.2015 on the file of the third respondent within a time frame that may be fixed by this Court.

2. Heard the learned counsel for the petitioners and the learned Government Advocate, who took notice for the respondents.

3. It is the case of the petitioners that they purchased a flat with an area of 1163 sq.ft in the multi storeyed building known as 'Adiga Manor' at Door No.27 (Old Door No.33), C.P.Ramaswamy Road, Abiramapuram, Chennai-600 018, along with 695 sq.ft undivided share of land in R.S.No.3637/1 of Mylapore Village, Mylapore-Triplicane Taluk, Chennai District situated within the sub registration jurisdiction of the third respondent herein and they paid the necessary stamp duty as per the consideration amount mentioned in the sale deed. Though the third respondent registered the sale deed as Doc.No.1660 of 2015 dated 4.6.2015, they did not return the same to the petitioners. While so, the first petitioner received a show cause notice dated 22.07.2015 issued by the second respondent in Form I under Rule 4 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, stating that their document has been referred to the first respondent under section 47A(1)(3) of the Indian Stamp Act and demanding an explanation as to why the said document had been undervalued. On receipt of the same, the first petitioner sent his reply in detail on 17.08.2015 to the second respondent. Thereafter, there was no response on the part of the respondents. Hence, the first petitioner gave a representation dated 12.11.2015 to the third respondent to return the registered document dated 4.6.2015. But, till date, no action has been taken by the third respondent. Therefore, the petitioners have filed the present writ petition for the above stated relief.

4. In similar circumstances, the learned single judge of this Court, by an order dated 04.02.2015 made in WP.No.2700 of 2015, directed the Sub Registrar concerned to return the sale deed, subject to certain conditions. For better appreciation, the relevant para of the said order is extracted hereunder:

6. In the light of the above, there will be a direction to respondents to return the sale deed bearing document No.2990 of 2014 dated 4.7.2014 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."

Following the same, there shall be similar order in this writ petition also.

5. Accordingly, this Writ Petition is disposed of in the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The District Collector,
Chennai District,
Office of the District Collector,
5th Floor, M.Singaravelar Maligai,
No.32, Rajaji Salai, Chennai 600 001.

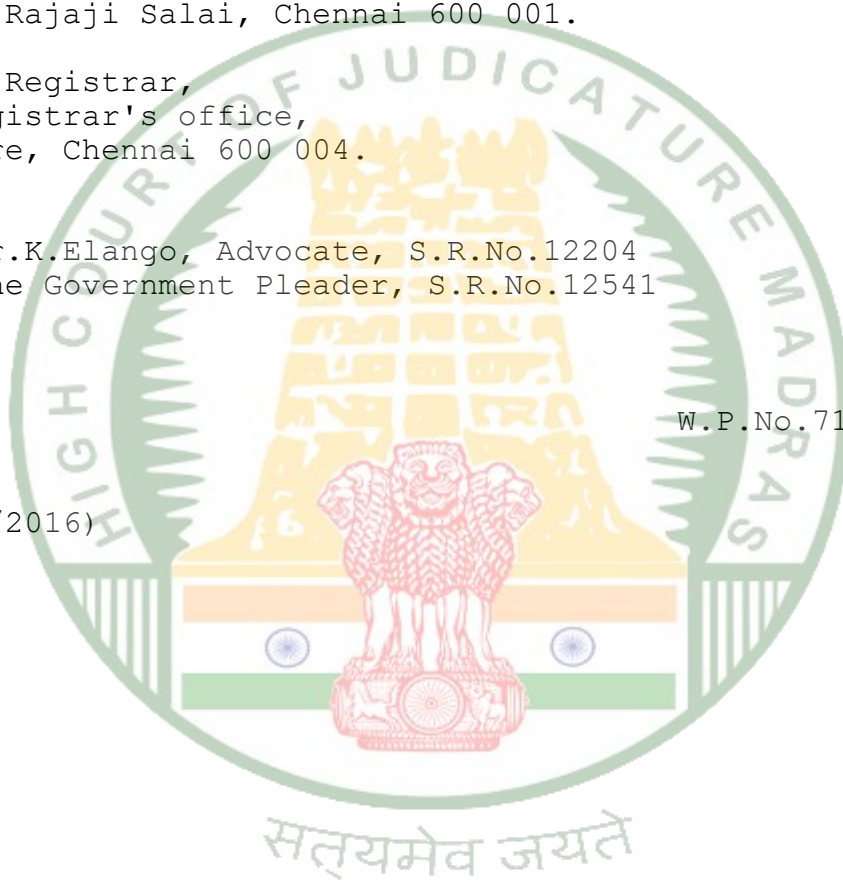
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3.The Sub Registrar,
Sub Registrar's office,
Mylapore, Chennai 600 004.

+1cc to Mr.K.Elango, Advocate, S.R.No.12204
+1cc to the Government Pleader, S.R.No.12541

W.P.No.7199 of 2016

svi(CO)
srg(21/03/2016)



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