IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.8159 of 2016
and
WMP.No.7249 of 2016

M/s.Sree Swarnaganapathy
Hire Purchase Pvt. Ltd.
represented by its Director,
K.Poorna Chandra ... 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 District Revenue Officer (Stamps)
Office of the District Revenue Officer,
Collectorate, Singaravelan Maligai
Chennai 600 001.
Tamil Nadu.

3.The Sub Registrar,
Officer of the Sub Registrar,
Guduvanchery,
Chennai 603 202. ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus directing the third respondent to release the rectification deeds bearing Document Nos.2206, 2209, 2210, 2211, 2212, 2213 and 2214 of 2013 pending on the file of the third respondent, pursuant to the orders passed by the second respondent in his proceedings bearing Letter No.A6/87/2013 dated 31.10.2013.

For Petitioner : Mr.S.Sundaresan

For Respondents : Mr.K.Thangapandi, GA

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the third respondent to release the rectification deeds bearing Document Nos.2206, 2209, 2210, 2211, 2212, 2213 and 2214/2013 pending on his file, pursuant to the order passed by the second respondent in his proceedings bearing No.A6/87/2013 dated 31.10.2013.

2. The case of the petitioner, as per the averments made in the writ petition, is as follows:

The petitioner company purchased the plots situated in Thirumurugan Nagar Part II, Aadanur Village, Sri Perumbudur Taluk, Kancheepuram District from one B.Lalitha. The details of the purchased plots are as follows:

| Sl.No. | Plot No. | Doc.No. | Date of Registration at SRO, Guduvancherry | Value as per the document (Rs) | Value fixed by D.R.O (Stamps) (Rs) |
|---|---|---|---|---|---|
| 1 | 28, 29, 30, 31, 32, 33, 34 | 11932/2011 | 28.10.2011 | 26,58,600/- | 23,066/- |
| 2 | 26, 27 | 11933/2011 | 27.10.2011 | 11,74,350/- | 27,122/- |
| 3 | 35, 36, 37, 38, 39, 40, 41 | 11934/2011 | 28.10.2011 | 28,04,400/- | 41,110/- |
| 4 | 47, 48, 49, 50, 51 | 11935/2011 | 28.10.2011 | 25,84,200/- | 42,176/- |
| 5 | 3, 4 | 11048/2011 | 07.10.2011 | 7,24,200/- | 82,616/- |
| 6 | 7, 8 | 11477/2011 | 20.10.2011 | 8,50,300/- | 89,677/- |
| 7 | 9, 10 | 11478/2011 | 20.10.2011 | 12,86,850/- | 37,510/- |
| 8 | 21, 25 | 11697/2011 | 27.10.2011 | 13,20,450/- | 85,046/- |

While typing the sale deeds for the purchase of the above said plots, survey number was omitted to be included in the schedule of the property due to inadvertent mistake, which necessitated the petitioner to execute the rectification deeds. After execution of the rectification deeds, the same were registered as Document Nos.2206, 2208, 2209, 2210, 2211, 2212, 2213 and 2214 of 2013 on the file of the third respondent, Sub Registrar, Guduvancherry. However, the third respondent has sought for clarification and has also referred the documents to the second respondent for collection of the alleged deficit stamp duty. On coming to know about the same, the petitioner made a letter dated 21.10.2013 to the second respondent, requesting the second respondent not to collect stamp duty for the rectification deeds on the ground that they have duly paid the required stamp duty and registration charges at the time of registration of the sale deeds. Considering the petitioner's request, the second respondent by his letter bearing No.A6/87/2013 dated 31.10.2013, returned the rectification deeds in question to the third respondent, stating that there is no necessity to collect deficit stamp duty, since the rectification deeds are for the purpose of inclusion of survey numbers, which were omitted to be mentioned in the sale deeds. In spite of the same, the third respondent is yet to release the said rectification deeds to the petitioner. Therefore, the petitioner has filed the present writ petition for the above stated relief.

3. The third respondent has filed a counter affidavit, wherein, in para 5, it has been stated as follows:

> "It is submitted that the documents are withholding by the Sub Registrar office, Guduvancherry, 3rd respondent herein, for collecting deficit stamp duty from the petitioner. It is further submitted that if there is no alteration of the boundaries and consideration of the document, there is no need to levy stamp duty on the rectification deed as a fresh sale deed. In this case, it is only a mis-description of property, which was sought to be rectified. Hence, if this Hon'ble Court pass order to release the said Document Nos.2206, 2208, 2209, 2210, 2211, 2212, 2213 and 2214 of 2013 on the file of the Sub Registrar, Guduvancherry, the respondent will abide by the order of this court".

4. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials placed before this Court.

5. Admittedly, the documents in question are the rectification deeds only to include the survey numbers, which are omitted to be included in the sale deeds and the same are sought to be released by the third respondent to the petitioner. Further, as per the averments made in para 5 of the counter affidavit filed by the third respondent as extracted above, the third respondent has categorically stated that if

there is no alteration of boundaries and sale consideration of the document, there is no need to levy stamp duty on the rectification deed as fresh sale deed and in this case, it is only a mis-description of property, which was sought to be rectified. Apart from that, the second respondent, by his communication dated 31.10.2013, has returned the documents in question to the third respondent, stating that the rectification deeds are executed only to correct the mistake crept in the sale deeds with regard to the survey number and the same do not call for action under Section 47-B of the Stamp Act. In such circumstances, this Court is of the view that it would be appropriate to direct the third respondent to release the rectification deeds in question.

6. Accordingly, the writ petition is disposed of, by directing the third respondent to release the rectification deeds bearing Nos.2206, 2208, 2209, 2210, 2211, 2212, 2213 and 2214 of 2013 pending on his file, as per law and on merits, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.
rk

Sd/-
Assistant Registrar(VII)

//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 District Revenue Officer (Stamps)
Office of the District Revenue Officer,
Collectorate, Singaravelan Maligai
Chennai 600 001. Tamil Nadu.

3.The Sub Registrar,
Officer of the Sub Registrar,
Guduvanchery, Chennai 603 202.

+1cc to the Government Pleader, S.R.No. 21752

mp(CO)
prk12/4 W.P.No.8159 of 2016