IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2017

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.14491 of 2017
and
WPMP No.15720 of 2017

Futura Polyesters Limited,
Mumbai and having its registered office
at Paragon Centre,
Pandurang Budhkar Marg,
Mumbai 400 013 and rep. by
its Authorised Signatory .. Petitioner

vs

1.The District Registrar (Administration),
(in the cadre of Assistant Inspector
General of Registration),
North Chennai,
Chennai.

2.The Sub Registrar,
Tiruvotriyur. .. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the second respondent to release the document of sale, dated 15.03.2017 and registered as Doc.No.1434 of 2017 on the file of the Sub Registrar, Thiruvotriyur and executed by the petitioner herein to and in favour of Dr.David Mani Nesan and after making necessary endorsement regarding the pendency of the proceedings under the provisions of the Indian Stamp Act, 1899 and the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 within time be fixed by this court.

For Petitioner: Mr.N.Damodaran

For Respondents: Mr.R.Govindasamy,
Special Government Pleader

O R D E R

The petitioner seeks for a mandamus directing the second respondent to release the document of sale, dated 15.03.2017 and registered as Doc.No.1434 of 2017 on the file of the Sub Registrar, Thiruvotriyur and executed by the petitioner herein to and in favour of M/s.David Mani Nesan and after making necessary endorsement regarding the pendency of the proceedings under the provisions of the Indian Stamp Act, 1899 and the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 within time be fixed by this court.

2.Heard Mr.N.Damodaran, learned counsel appearing for the petitioner and Mr.R.Govindasamy, learned Special Government Pleader appearing for the respondents.

3.The issue involved in this case is as to whether the respondents are entitled to retain the document after the registration of the sale on the reason that the document is referred to the Authority under Section 47(A) of the Indian Stamp Act, 1899 for determination of the true market value of the property in question, as, according to the respondents, the petitioner is said to have undervalued the property.

4.It is not in dispute that the said question has already been considered by this court in very many cases and a view has been taken to return the document, after making necessary endorsement in the said document, however, without prejudice to the pendency of the proceeding under Section 47(A) of the Act.

5.One such order dated 14.06.2016 made in W.P.Nos.18521 and 18522 of 2016 is placed before this court, wherein this court has observed at paragraph Nos. 6 to 8 as follows:

> "6.This Court has carefully considered the rival submissions and also perused the materials placed before it.
>
> 7.In B.Rajappa and another v. The Special Deputy Collector (Stamps), Chennai and two others (2002(3) CTC 544), scope of Section 47-A of the Indian Stamps Act, 1899 came up for consideration and it is relevant to extract 15 of the said judgment:
>
> "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 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 instructions.

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 duly 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."

8.In the light of the above cited judgment, these writ petitions are disposed of and the second respondent is directed to return the sale deeds in Doc. Nos.8196/2005 and 3528/2016, to the petitioner after making necessary endorsement and the respondents shall complete the said exercise within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed."

6.It is admitted by the second respondent in the counter affidavit filed in this writ petition that the subject matter sale deed was referred to the District Revenue Officer (Stamps), Chennai, who is the Collector under Section 47-A(1) of the Indian Stamp Act for determination of the true market value of the property in question.

7.Therefore, considering the above stated facts and circumstances and the order passed by this court in similar cases as stated supra, this writ petition is disposed of, by directing the second respondent to return the subject matter sale deed to the petitioner, after making necessary endorsement within a period of three weeks from the date of receipt of a copy of this order, subject to the following further conditions:

i) It is open to the Registering Authority to affix 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 instructions.

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 duly 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."

No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To
1.The District Registrar (Administration),
(in the cadre of Assistant Inspector
General of Registration),
North Chennai,
Chennai.

2.The Sub Registrar,
Tiruvotriyur.

+1cc to Mr.Damodaran, Advocate sr.72226

+1cc to Government Pleader sr.72100

W.P.No.14491 of 2017

sk(co)
ss(27/10/2017)