BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 21.09.2017
CORAM
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P(MD)No.6713 of 2014

Pioneer Industries and Trading Corporation,
represented by its Partner Ramesh Kumar. .. Petitioner

Vs

The Sub-Registrar,
Sub-Registrar Office,
2/35, Kottai Theru,
Kurukku Salai Road,
Ottapidaram Post,
Tuticorin District. .. Respondent.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned notice, dated 8.4.2014 issued by the respondent and to quash the same as illegal, arbitrary and without jurisdiction and consequently to direct the respondent to release the sale deed dated 19.3.2013 registered as Document No.201300830/2013 in the office of the respondent.

(Prayer amended as per order of this Court made in M.P(MD)No.1 of 2015 in W.P(MD)No.6713 of 2014, dated 2.8.2017)

For Petitioner : M/s.M.Rajaraman
For Respondent : Mr.A.Muthukaruppan
Addl.Govt.Pleader

ORDER

This Writ Petition has been filed challenging the order of the respondent, dated 8.4.2014 and for a direction to release the sale deed, dated 19.3.2013 registered as Document No.201300830/2013.

2.Heard the submissions made by Mr.M.Rajaraman, learned counsel for the Petitioner and Mr.A.Muthukaruppan, learned Additional Government Pleader appearing for the respondent and perused the materials placed before this Court.

3.The grievance of the Petitioner is that the respondent after registration of the sale deed without referring the document under 47-A of the Stamp Act, has issued the impugned order directing the Petitioner to pay Rs.19 lakhs towards additional stamp duty and the registered document was not also released to the Petitioner.

4.The learned counsel for the Petitioner would submit that after registration of the document, the respondent has no authority to withhold the document as per the decision of this Court made in ***W.P.No.11920 of 2017, dated 2.6.2017 (K.Rajeswari . vs. The Special Deputy Collector(Stamps) and others.***

5.The learned Additional Government Pleader appearing for the respondent, on instruction, would submit that the respondent has referred the sale deed to the Special Deputy Collector(Stamps), Thoothukudi to initiate proceedings under Section 47-A(1) of Indian Stamp Act, so the Petitioner has to agitate his case before the Special Deputy Collector(Stamps),Thoothukudi. It is further contended that since sufficient stamp duty was not paid, the Petitioner is not entitled for the release of the document.

6.In view of the fact that the respondent has already referred the document to Special Deputy Collector(Stamps), Thoothukudi to take action under Section 47-A, the impugned demand notice is liable to be quashed and accordingly, the same stands quashed

7.This Court in the judgement referred by the learned counsel for the Petitioner has issue a direction to release the sale deed with certain conditions. Following the same, the present Writ Petition stands disposed of, with a direction to the respondent to release the document in Document No.201300830/2013 to the Petitioner, with the following directions:

> *1.The Special Deputy Collector(Stamps), Thoothukudi, having proceeded with enquiry under Section 47-A of the Stamp Act by notifying notice under Form-I, the authorities are entitled to proceed further by conducting enquiry as per the Act and Rules to pass provisional order and thereafter pass final order as per Rules 6 and 7. However, in the meantime, the registering authority shall release the document to the Petitioner with the endorsement in the form of affixing seal indicating that the reference under Section 47-A with respect to undervaluation and assessment of stamp duty payable is pending.*
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> *2.In addition to the above said affixture of seal, the concerned registering authority shall make corresponding entries in the Register maintained under the Registration Act, 1908, especially with reference to Sections 54 and 55, as to the pendency of Section 47-A proceedings, to be disclosed in the encumbrance certificates relating to the said properties.*

3.On completion of entire adjudication in respect of undervaluation by the competent authorities including the appeal and revision, if any, based on the ultimate decision, the authorities are entitled to recover the deficit stamp duty in accordance with the provisions of the Stamp Act.

4.Till such finality is reached and deficit stamp duty is paid in full as enshrined under Section 47-A(4) of the Act, there will be a charge on the property which is the subject-matter of such document in respect of the amount of deficit stamp duty.

5.On payment of the deficit stamp duty by the party, the registering authority, on production of the original deed of transfer shall make appropriate entry regarding the factum of payment of full stamp duty and discharging property from the charge as per Section 47-A(4) of the Act and also make consequential entries in the encumbrance and indexes maintained under Sections 54 and 55 of the Indian Registration Act, 1908.

6.The respondent herein shall release the document within a period of four weeks from the date of receipt of a copy of this order.

No costs.

Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To
1.The Sub-Registrar,
Sub-Registrar Office,
2/35, Kottai Theru,
Kurukku Salai Road,
Ottapidaram Post,
Tuticorin District.

*2.*The Special Deputy Collector(Stamps)
Tuticorin District.

+1cc to Mr.M.Rajaraman, Advocate Sr.No.80431

VSN
VB/SKN/RSK/SAR4/10/10/2017/3P/4C