BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2017

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P(MD)No.17195 of 2017

S.Mohammed Bilal .. Petitioner

Vs

The Sub Registrar,
Thuraiyur,
Thiruchirapalli District. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to release the sale deed, dated 03.04.2017 registered as Document No.1196/17 on the file of the respondent in favour of the petitioner.

For Petitioner : Mr.T.Antony Arul Raj
For Respondent : Mr.C.Selvaraj
Special Government Pleader

ORDER

The prayer sought for in this writ petition is to direct the respondent to release the sale deed, registered as Document No.1196/2017, dated 03.04.2017.

2.Mr.T.Antony Arul Raj, learned counsel for the petitioner would contend that it is not disputed that the petitioner had purchased lands through a registered sale deed, dated 03.04.2017 and after registration of the document, the respondent has no right or authority to withhold the document under the guise of proceedings under section 47-A of the Act.

3.Mr.C.Selvaraj, learned Special Government Pleader, on instructions, would submit that true value of the land has not been set forth in the document and since, the sale deed has been insufficiently stamped, the authorities have initiated action under the provisions of the Stamp Act against the petitioner and the same is still pending.

4.I have considered the rival submissions and also perused the materials available on records.

5.The issue involved in this writ petition is no longer res integra. In similar facts, this court, in the case of B.Rajappa and another vs. The Special Deputy Collector (Stamps) (2002 (3) CTC 544) has held that after registration of a document, the Registering Authority has no power to retain the same and to protect the interest of the Government, issued suitable directions.

6.The decision of Rajappa's case referred to above, has been followed in 2008(3) CTC 614 [Tata Cofee Ltd. vs. The State of Tamil Nadu], 2008 WLR 260 [The Sub Registrar, Chingleput v. R.Rama] and 2015 (1) CWC 353 [J.John Jesurajan vs. The District Registrar, District Registration Office]. In view of the consistent view taken by this court in the decisions cited supra, I am of the considered opinion that the petitioner is entitled to succeed in the writ petition.

7.In the result, the writ petition is allowed with the following conditions:-

(i)The Registering Authority while releasing the document shall make necessary endorsement on the original document to the effect that the proceedings under Sections 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 document, which is 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(1), 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 document 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 document has been paid in full and return the same; and

(v)After such endorsement, the Registering Authority shall make necessary entry as to the completion of 47-A proceedings in the Register maintained by them so as to reflect the same in the Encumbrance Certificate.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar.

To
The Sub Registrar,
Thuraiyur, Thiruchirapalli District.

+1CC to Mr.T.Antony Arul Raj, Advocate, SR.No.80564
+1CC to the Special Government Pleader SR.No. 81061

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