

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.15924 of 2017

K.S.Yogalaxmi

.. Petitioner

-vs-

1.The District Revenue Officer (Stamps)
M.Singaravelar Maligai (V Floor),
Collectorate Building,
32, Rajaji Road,
Chennai - 600 001.

2.The Sub Registrar,
Tirutani Sub Registrar Office,
Tiruvallur District.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to release the original sale deeds dated 16.03.2015 (Doc. No.1191/2015) and dated 11.11.2015 (Doc.No.4718/2015) registered on the file of the 2nd respondent forthwith by considering the petitioner's representation dated 22.05.2017.

For Petitioner :: Mr.N.Manokaran

For Respondent :: Mr.D.Suriyanarayanan,
Addl. Govt. Pleader

ORDER

The petitioner has purchased a land having an extent of 3097 (1612 + 1485) sq. ft, bearing Survey No.123/155, situated at Tirutani Village from one Tmt.Jayaprada and E.Hema, represented by their power agent Mr.V.R.Eswara Rao, under a sale deed dated 16.03.2015 (Doc.No.1191/2015) registered on the file of the second respondent and also purchased another land having an extent of 3965 (2480 + 1485) sq. ft, bearing S.No.123/155A, situated at Tirutani Village from Jayaprada and three others under a sale deed dated 11.11.2015 (Doc.No.4718/2015).

Thereafter, the District Revenue Officer (Stamps), Chennai, issued Form-1 notice dated 10.03.2016, in the printed format asking the petitioner to submit her objections within 21 days. On receipt of the same, the petitioner has also submitted her objections within 15 days from the date of receipt of Form-1 notice. However, neither Form-2 nor provisional assessment order has been issued till date. Therefore, a representation was given on 22.05.2017, requesting the respondents to release the original documents dated 16.03.2015 and 11.11.2015. After receiving the same, till date, the respondents have not even responded to her representation and hence, the petitioner has come to his Court.

2. Taking reliance from a judgment of this Court in the case of B.Rajappa Vs. The Special Deputy Collector (Stamps), reported in 2002(3) CTC 544, the learned counsel appearing for the petitioner would submit that this Court, while dealing with the power of registering authority to make reference with regard to the appropriate stamp duty payable on documents and also to retain the sale deed after completion of registration without releasing the same to the purchaser, issued a specific mandamus subject to the following conditions, which are given hereunder:

i) It is open to the Registering Authority to affix a seal, while releasing the original deed or conveyance or any other documents indicating that a reference is pending under Section 47-A with respect to under-valuation 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 instrument;

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 duty 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."

3. In the present case on hand, since the petitioner has purchased the aforementioned properties and the same are pending with the first respondent, they cannot refuse to release the documents as against the law laid down by this Court in the aforementioned case.

4. This Court has adjourned the matter on more than eight occasions, viz., 23.06.2017, 14.07.2017, 31.07.2017, 07.08.2017, 08.08.2017, 29.08.2017, 02.03.2018 and 03.04.2018, but it is not known why the respondents have not chosen to file counter affidavit till now.

5. The learned Additional Government Pleader appearing for the respondents, today once again seeks adjournment for filing counter affidavit. But this Court is not inclined to accept the request for any more adjournment, since as mentioned above, although eight chances were given to the respondents, no counter affidavit has been filed.

6. The petitioner, having purchased the property under two sale deeds dated 16.03.2015 (Doc.No.1191/20150) and dated 11.11.2015 (Doc.No.4718/2015), is entitled to receive the original documents from the first respondent. Because, this Court could see, that way back on 10.03.2016 and 04.04.2016, Form-1 notices were issued by the first respondent, asking the petitioner to submit her objections within 21 days and the said time limit had gone long time back. While that being the case, this Court, finds that the directions given by this Court in the aforementioned case is squarely applicable to the case of the petitioner. Hence, I direct the respondents to release the original sale deeds dated 16.03.2015 (Doc. No.1191/2015) and dated 11.11.2015 (Doc.No.4718/2015) within a period of three weeks from the date of receipt of a copy of this order.

7. This writ petition is disposed of accordingly. No costs.

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Sd/-
Assistant Registrar (CS III)

//True copy//

Sub Assistant Registrar

vsm

To

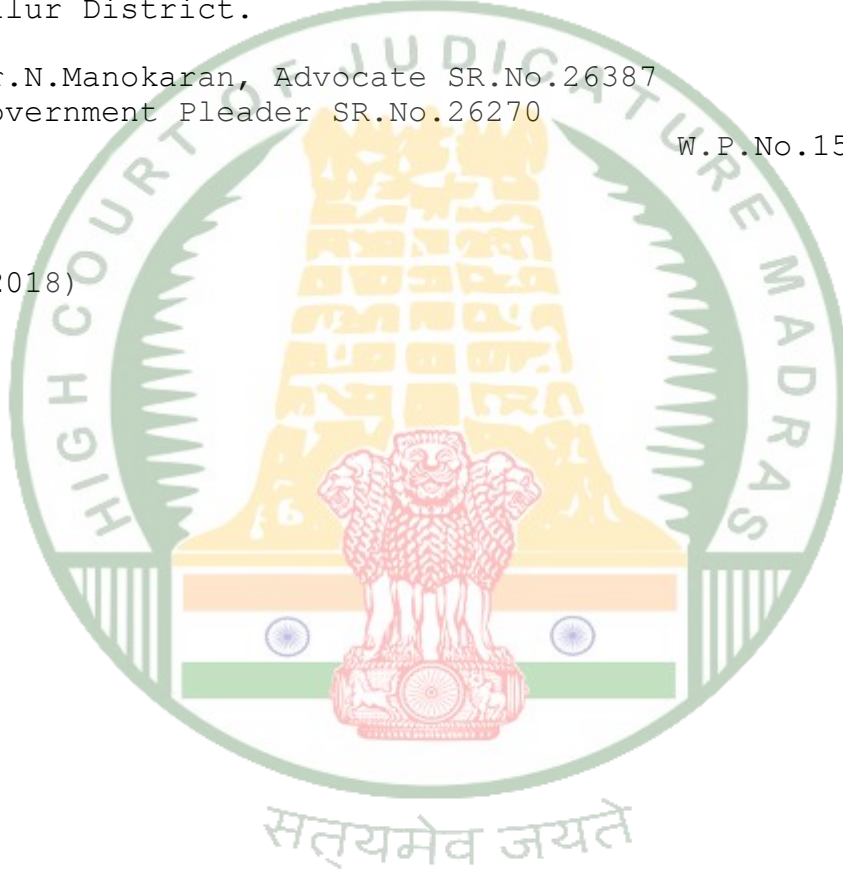
1.The District Revenue Officer (Stamps)
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2.The Sub Registrar,
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Tiruvallur District.

+1cc to Mr.N.Manokaran, Advocate SR.No.26387
+1cc to Government Pleader SR.No.26270

W.P.No.15924 of 2017

GMI (CO)
GN(27/04/2018)



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