IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.11908 of 2013

M.Vimal Chand ...Petitioner

Vs.

1. The Special Deputy Collector (Stamps),
   Vellore & Thiruvannamalai Districts,
   Collectorate, Sathuvachari,
   Vellore - 632 009.

2. The Sub Registrar,
   Ambur - 635 802,
   Vellore District. ...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the respondents to return the petitioners original Sale Deed, dated 15.07.2008, Doc.No.4344/2008 on the file of the 2nd respondent, the Sub Registrar, Ambur after making the necessary endorsements thereon.

For Petitioner : M/s.T.M.Hariharan
For Respondents : Mr.B.Anand, G.A.

ORDER

Heard Mr.T.M.Hariharan, learned counsel for the petitioner and Mr.B.Anand, learned Government Advocate appearing for the respondents and perused the materials available on record.

2. The petitioner has come up with the present Writ Petition seeking direction to the respondents to return the petitioner's original sale deed dated 15.07.2008, registered as Doc.No.4344/2008, on the file of the second respondent.

3. The case of the petitioner is that he purchased agricultural lands in Punja Survey No.241/2 in Ambattur Village, for a consideration of Rs.3,15,000/-. The second respondent after registering the sale deed referred the matter to the 1st

respondent under Section 47A(1) of the Indian Stamp Act, stating that the petitioner has not set forth the correct value of the land. According to the petitioner, the second respondent has no authority to retain the sale deed after registration and it has to be returned.

4. The issue involved in this writ petition is no longer res integra, the Division Bench by its judgment, dated 09.10.2017 in W.A.No.1176 of 2017, has held as follows:

> "27. The learned counsel appearing for the respondents in Writ Appeals and the petitioners in the Writ Petitions would submit that in the absence of provision to withhold the documents they are to be returned. The registering authority cannot withhold the document. The same applies to the Collector as well. Section 47-A (4) of the Indian Stamp Act provides for a charge. Therefore, there is no need for withholding the document. Reference is with respect to the dispute and not the instrument. Thus, the writ petitions will have to be allowed and the writ appeals will have to be dismissed.
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> 28. As discussed above, there is no question of return of the instrument by the registering authority, if a reference is made along with the instrument. In the absence of any provisions enabling the return of the instruments, the same cannot be given back. The provision for creating charge cannot be construed for an automatic release of the document. Even if we apply the principle of purposive and reasonable interpretation, the instrument cannot be released until and unless the duty determined is set aside or found to be wrong. In the light of discussions made above, we are of the view that the contentions raised by the learned counsel for the writ petitioners cannot be accepted. "

5. In the light of the above decision of the Division Bench of this Court, the petitioner is not entitled for the relief sought for in the Writ Petition. In the result, the Writ Petition fails and the same is dismissed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

pvs

To

1. The Special Deputy Collector (Stamps),
   Vellore & Thiruvannamalai Districts,
   Collectorate, Sathuvachari,
   Vellore - 632 009.

2. The Sub Registrar,
   Ambur - 635 802,
   Vellore District.

+1 CC to M/s.T.M.Hariharan, Advocate sr 26711.

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SP(11/06/2018)