

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.01.2018

CORAM

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
AND
THE HONOURABLE MR. JUSTICE P. VELMURUGAN

Writ Appeal No.1164 of 2016
and CMP Nos.14955 and 14956 of 2016

The Joint Sub Registrar, 1,
K-9/3, Coonur Road,
Ooty 643 001

..... Appellant/Respondent

vs

C. Maalathi

..... Respondent/Petitioner

Writ Appeal filed under Clause 15 of Letters Patent against
the order passed in W.P.No.28662 of 2016 dated 17.08.2016.

W.P. No 28662/2016:

Petition filed under Article 226 of the constitution of
India to issue a Writ of Mandamus directing the Respondent to
return the registered sale deed Doc. No. 1086/2016 dated
29.07.2016.

For Appellant : Ms.A. Sreejyanthi

For Respondent : Notice served
(No appearance)

JUDGMENT

(Judgment of the Court was delivered by
K.K. SASIDHARAN, J.,)

The Order, directing the appellant to return the document to
the respondent, after making an endorsement with regard to the
pendency of the proceeding under Sec.47-A of the Indian Stamp
Act 1899, is under challenge in this intracourt appeal.

2. Heard the learned Special Government Pleader on behalf
of the appellant.

3. None appeared for the respondent.

4. The document presented by the respondent was registered by the appellant as per Document No.1086 of 2016. Since the document was not returned to the respondent, inspite of submitting a representation, a writ petition in W.P.No.28662 of 2016 was filed before the Writ Court.

5. Before the learned Single Judge, the appellant contended that the proceeding under Sec.47-A of the Indian Stamp Act, 1899 is likely to be commenced shortly and as such, it is not possible to return the document. The learned Single Judge, by following the earlier decision reported in 2002(3)CTC 544 (B. Rajappa and another vs The Special Deputy Collector (Stamps), O/o The Collectorate (V floor), Singaravelar Maaligai, Rajaji Salai, Madras and 2 others), allowed the writ petition. The learned Single Judge directed the appellant to release the registered sale deed within a period of two weeks, after making endorsement.

6. When this appeal came up for hearing on 25.01.2018, we directed the learned Special Government Pleader to take instructions as to whether the proceedings under Sec.47-A of the Indian Stamp Act is still pending.

7. When this appeal is taken up for hearing today, the learned Special Government Pleader, by producing a copy of the proceeding dated 09.06.2017, on the file of The Collector of Stamps, Udagamandalam, submitted that orders have already been passed by the competent authority.

8. The learned Single Judge directed the appellant to return the document, pending adjudication of the proceeding under Sec.47-A of the Indian Stamp Act.

9. Now that, the statutory authority has already passed an order under Sec.47-A of the Indian Stamp Act. It is for the respondent to work out her remedy in the manner known to law.

10. In case, the respondent is of the view that the order requires to be challenged before the appellate authority, it is always open to her to initiate such proceedings. The appellate authority has also the power to pass an interim order, during the currency of the appeal.

11. We are, therefore, of the view that the order passed by the learned Single Judge deserves to be set aside on account of the subsequent events.

12. In the result, the order passed by the learned Single Judge dated 17.08.2016 is set aside. The writ petition in W.P.No.28662 of 2016 is dismissed on account of the subsequent events.

13. The intracourt appeal is allowed. No costs. Consequently, connected CMPs are closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

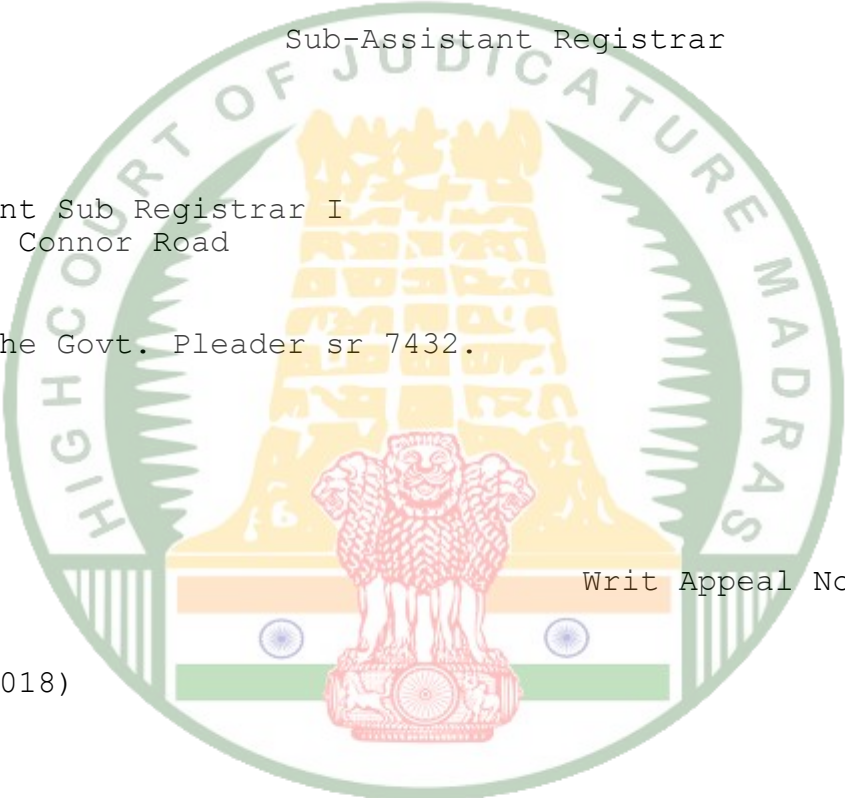
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1. The Joint Sub Registrar I
K-9/13, Connor Road
Ooty.

+1 CC to The Govt. Pleader sr 7432.

BR(CO)
SP(21/02/2018)

Writ Appeal No.1164/2016



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