

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.19733 of 2013

& M.P.No.1 of 2013

R.Rajendran

...Petitioner

Vs.

1. The District Registrar of Registration,
Namakkal.

2. The Sub Registrar No.2.
O/o Sub Registrar,
Namakkal.

3. The Chief Manager,
State Bank of India,
Namakkal.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the entire records relating to the impugned order passed by the 2nd respondent in his proceedings No.Nil, dated 8.07.2013 and quash the same and consequently, directing the 2nd respondent to register the documents called as Memorandum the existing equitable mortgage partial release of property.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.N.Inbanathan, AGP (for RR1 & 2)
Mr.S.Sethuraman (for R3)
Standing Counsel

ORDER

The petitioner challenges the order of the 2nd respondent dated 08.07.2013, whereby, the petitioner was directed to pay a sum of Rs.7,19,280/- for release of his properties under mortgage.

2. Heard the learned counsel for the petitioner, the learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned Counsel for the 3rd respondent.

3. The case of the petitioner is that he is a business man and while he availed finance assistance from the 3rd respondent-Bank, has mortgaged his properties, which was also registered in the office of the 2nd respondent. At the time of registration of the mortgage deed, he paid necessary charges.

4. The petitioner further stated that he decided to settle some of the properties mortgaged in favour of his children and the 3rd respondent also agreed to release the properties. Thereafter, he approached the 2nd respondent and remitted Rs.10,000/- for release of the documents, but the 2nd respondent demanded payment of Rs.7,19,280/-, hence, the Writ Petition.

5. In the instant case, it is not in dispute that the petitioner availed loan from the 3rd respondent-Bank by mortgaging his properties, which were also registered in the office of the 2nd respondent. The learned counsel for the petitioner submitted that as per Article 55A of the Indian Stamp Act, the petitioner is liable to pay only Rs.10,000/- and the demand of such huge amount is illegal.

6. Article 55A of the Schedule I appended to the Indian Stamp Act reads as follows:

Description of Instrument	Proper Stamp Duty
55.A. Release, that is to say, any instrument (not being such a releae as is provided for by Section 23-A) or a release referred to in clauses B, C and D of this Article whereby a person renounces a claim upon another person or against any specified property.	One rupee for every Rs.100 or part thereof of the market value of the property which is under release Maximum stamp duty is reduced to Rs.25,000/- by G.O.Ms.No.125, C.T.& R(J1), dated the 30 th September 2013

7. It seems that the maximum ceiling limit of Rs.10,000/- for release of document, as per Article 55A of the said Act, was enhanced to Rs.25,000/-, with effect from 01.10.2013. In the clarification letter dated 14.06.2011, the Inspector General of

Registration has clarified that the Stamp Duty payable is 1% on the mortgage value of the property, subject to the ceiling limit of Rs.10,000/-, under Article 55A of the Schedule I of the Indian Stamp Act.

8. From the perusal of the provision in the Stamp Act and clarification letter, it is evident that the maximum stamp duty chargeable was Rs.10,000/-, which is enhanced to Rs.25,000/-. Hence, the demand made by the 2nd respondent for payment of Rs.7,19,280/- has no basis.

9. In that view of the matter, the order impugned in this Writ Petition is set aside and the petitioner is directed to pay a sum of Rs.25,000/- (Rupees twenty five thousand only). On such payment, the 2nd respondent shall release the documents, subject to confirmation from the 3rd respondent. Accordingly, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The District Registrar of Registration,
Namakkal.
2. The Sub Registrar No.2.
O/o Sub Registrar,
Namakkal.
3. The Chief Manager,
State Bank of India, Namakkal.

+1cc to the Government Pleader SR.No.20953

+1cc to Mr.S.Sethuraman, Advocate SR.No.20186

+1cc to Mr.C.Prakasam Advocate SR.No.20346

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SDR 13.04.2018