IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.08.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

WP.No.98 of 2016
and
W.M.P.No.45 of 2016

Mrs. A.Ranjitham ..Petitioner

vs

1.The Inspector General of,
Registration,
Registration Department,
Santhome, Chennai 600 004.

2. The District Registrar,
North Chennai,
No.1, Muthiyal Lane,
Chennai 600 001.

3. The Sub Registrar,
Ponneri,
Thiruvalluvar District.

..Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India petitioner prayed that this Court to issue a writ of Certiorari calling for the records relating to the undated impugned notice issued by the 3rd Respondent and to quash the same.

For Petitioner : Mr. K.V. Babu
For Respondents : MR. P.P.Purushothaman,
Government Advocate

O R D E R

The proceedings issued by the Sub Registrar, Ponneri in respect of the deposit amount of Stamp Duty to be paid by the writ petitioner is under challenge in this writ petition.

2. The learned counsel appearing for the petitioner states that the petitioner executed a Sale Deed on 21.08.2014 registered as Doc.No.8370/2014 in the office of the 3rd respondent. The petitioner had purchased piece and parcel of

vacant house site bearing plot No.61 measuring an extent of 1000 sq.ft or thereabouts or plot No.62, measuring an extent of 1000 sq.ft or thereabouts, in all admeasuring a total extent of 2000 sq.ft or thereabouts in the Layout known as ''Sri Krishna Residency'', situated at No.58, Thadaperumbakkam Group, Krishnapuram Village, Comprised in S.Nos.86/1B, 86/1C and 86/3 in Ponneri Taluk, Thiruvalur District from Mr.R.K.Sureshkumar and others.

3. The learned counsel appearing for the petitioner states that it is an admitted fact that it is the newly formed layout and at the time of registration of the Sale Deed by the writ petitioner, the guideline value was available at Rs.200/- per sq.ft. Based on the guideline value which was fixed during the relevant point of time, the instrument was registered by the authorities competent and the Sale Deed was released in accordance with the procedures contemplated. There was no irregularity in respect of the registration of the Sale Deed by the writ petitioner and appropriate Stamp Duty was also paid and the document was also released by the 3rd respondent in time. After a lapse of about one year, the impugned notice has been issued by the 3rd respondent stating that the documents had wrongly been released without noticing the deficit of Stamp Duty to be paid by the writ petitioner at the time of registration of the documents.

4. The learned counsel appearing for the petitioner states that the stand taken by the 3rd respondent is untenable on the ground that during the appropriate point of time, the guideline value was fixed at Rs.200/- per sq.ft. The writ petitioner has paid the entire Stamp Duty at the time of execution of the documents before the 3rd respondent.

5. The learned Additional Government Pleader appearing on behalf of the respondents opposed the contention by stating that the guideline value fixed in respect of the property in question was Rs.500/- per sq.ft as per the proceedings dated 27.02.2015 and therefore, the writ petitioner is liable to pay the deficit Stamp Duty.

6. Considering the submissions, this Court has to go into the counter affidavit filed by the 3rd respondent, more specifically, Paragraph No.4 which states that there was no guideline value for 'Sri Krishna Residency' by the 2nd respondent, who is the authority to fix the guideline value for the newly formed layouts, was referred to determine the Guideline Value for 'Sri Krishna Residency'. Accordingly the 2nd respondent has determined the guideline value of Rs.500/- per Sq.ft under proceedings No.9862/B3/2014 dated 27.02.2015. Thus, the said Sale Deed has been inadvertently released to the writ petitioner without collecting the differences in Stamp Duty and

registration fee on the guideline value determined by the 2nd respondent.

7. Even in the counter affidavit, the 3rd respondent has admitted that the guideline value of Rs.500/- per sq.ft was fixed as per the proceedings dated 27.02.2015. Thus, the guideline value of Rs.500/- per sq.ft fixed in proceedings dated 27.02.2015 has to be implemented prospectively and such prescription of guideline value cannot be implemented retrospectively so as to effect the execution of the documents already registered under the provisions of the Registration Act. Enhancement in Stamp Duty cannot be implemented retrospectively so as to effect the documents already registered

8. This being the principles to be followed, the guideline value of Rs.500/- per sq.ft fixed by the 2nd respondent in proceedings dated 27.02.2015, cannot be applied in respect of the documents in question registered by the writ petitioner on 21.08.2014. In fact the documents had already been released and the petitioner has taken the documents from the office of the 3rd respondent. This being the factum of the case, subsequent fixation of guideline value by the 2nd respondent in proceedings dated 27.02.2015, cannot be a ground to declare that the documents registered on 21.08.2014 was executed without paying the required Stamp Duty.

9. Accordingly, the impugned Notice undated issued by the 3rd respondent is not in accordance with law and the same is liable to be scrapped and the impugned order passed by the 3rd respondent in undated proceedings is quashed and the writ petition stands allowed. No costs. Consequently connected miscellaneous petition is closed.

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

sk/pkn

To

1.The Inspector General of,
Registration,
Registration Department,
Santhome, Chennai 600 004.

2. The District Registrar,Tahsildar,
North Chennai,
No.1, Muthiyal Lane,
Chennai 600 001.

3. The Sub Registrar,
Ponneri,
Thiruvalluvar District.

+1 CC to M/s.K.V. Babu, Advocate sr 56155.
+1 CC to Govt. Pleader sr 56907.

WP.No.98 of 2016

SP(05/09/2018)