



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2018

C O R A M

WEB COPY

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD)No.8242 of 2018

1.S.M.Raman

2.S.M.Subramanian

... Petitioners

Vs.

1.The District Registrar
Registration Department,
Madurai.

2.The Sub Registrar,
Registration Department,
Thallakulam,
Madurai District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Mandamus, to direct the second respondent to return the release deed No.P201700080 dated 30.08.2017 executed in favour of the petitioners by their sisters and the same was registered on 11.09.2017 based on the representation dated 14.02.2018 within the period that may be stipulated by this Court.

For Petitioners : Mr.V.P.Rajan

For Respondents : Mr.R.Murugan

Government Advocate

O R D E R

When the petitioners have presented release deed dated 30.08.2017 before the second respondent for registration, the same was kept pending as Document No.P201700080, on the ground that the deed has been undervalued.

2.As per the Indian Stamp Act, the second respondent ought to have referred the document to the Collector under Section 47 (A) of the Act, for the purpose of determining the market value and for the required stamp duty. The procedure for determining the market value is contemplated under the Tamil Nadu Prevention of Under Value of Instrument Rules, 1968. This Court in various writ



petitions had held that the second respondent herein is not empowered to retain the document and as per Section 47 (A) they are bound to register the sale deed. It is always open to them to determine the deficit stamp duty and recover the same from the petitioner. In judgment reported in 2015 1 CWC 535 in the case of A.Jayakumar v. The Special Deputy Collector (Stamps), Virudhunagar District, Virudhunagar, the following directions were given :-

(i) At the time of releasing the Sale Deed, dated 16.10.2014, to the Petitioner, the Registering Authority / 2nd Respondent is directed to make necessary endorsement on the original document in question to the effect that the proceedings under Section 47(A) of the Indian Stamps Act, 1899 are contemplated or pending, as the case may be.

(ii) It is open to the Registering Authority/ 2nd Respondent to make necessary entries in the Register maintained in regard to the pendency of Section 47-A proceedings in respect of Sale Deed in question, which is subject matter of Registration, with a view to reflect the same in the Encumbrance Certificate, for the benefit of prospective Purchasers.

(iii). Pending final decision, in respect of any valuation under Section 47(A)(i), as per Section 45(A) of the Indian Stamps Act, 1899, there shall be a charge over of the properties in favour of the Government as regards the unpaid value of the Stamp Duty, if any.

(iv) Also that, after completion of whole proceedings under Section 47(A) of the Indian Stamp Act, the Registering Authority / the 2nd Respondent by annulling / superseding the earlier endorsement by clearly mentioning that the full / entire sum of Stamp Duty under the Document was paid in full and return the same.

(v) Moreover, after making such endorsement, the 2nd Respondent/ Registering Authority shall also make entries in regard to the completion of Section 47(A) proceedings in the Register maintained by them with a view to reflect the same in the Encumbrance Certificate.

(vi) In any event, the second Respondent or concerned Competent Authority is at liberty to finalise / complete the proceedings initiated under Section 47 (A) of the Indian Stamps Act, 1899, as quickly as possible, in the manner known to law and in accordance with law (of course, after providing due opportunities



to the Petitioner) by adhering to the principles of natural justice.

3.The above observation is self explanatory. If at all the second respondent is of the view that the Release Deed presented by the petitioner herein is undervalued, he ought to adopt the procedure contemplated under Section 47(A) of the Indian Stamps Act, 1899. It is always open to the second respondent to make necessary endorsement in the release deed that the proceedings under Section 47(A) are pending. However, he may not be empowered to retain the documents without registering the same.

4.In the result the writ petition stands allowed with a direction to the second respondent to register the release deed No. P201700080 dated 30.08.2017 and return the same to the petitioner within a period of two weeks from the date of receipt of a copy of this order, with necessary endorsement that the proceeding under Section 47(A) of the Indian Stamp Act have been contemplated or initiated.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1.The District Registrar
Registration Department,
Madurai.

2.The Sub Registrar,
Registration Department,
Thallakulam,
Madurai District.

+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.62197

+1CC TO Mr.V.P.Rajan, Advocate, Sr No.62371

W.P. (MD) No.8242 of 2018

18.04.2018

rmk/pnn

MS/CM-PN/SAR.1/15.05.2018/3P.5C