IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.03.2019

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P. No.8585 of 2016

Annirrutha Raghuveer .. Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai – 600 028.

2.The Sub Registrar,
O/o. Sub Registrar,
Neelangarai, Chennai. .. Respondents

PRAYER : Writ Petitions filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to refund the Stamp Duty of Rs.16,920/- and Registration Fee of Rs.2,570/- collected from the petitioner for registering the Rectification Deed dated 19.10.2015 in Doc.7822/2015 forthwith.

For Petitioner : Mr.Babu Rangasamy
for M/s.Babu Rangasamy Associates

For Respondents: Mr.T.M.Pappiah
Special Government Pleader

O R D E R

The petitioner has filed this writ petition seeking a direction to the respondents to refund the excess stamp duty of Rs.16,920/- and registration fees paid on 19.02.2015 for registering the rectification deed.

2. The facts of the case is that the petitioner has purchased a vacant house site measuring an extent of 2416 sq.ft. out of 4983 sq.ft bearing Plot No.4/2, Singaravelan Salai, North Street, Neelangarai, Chennai in S.No.75/1 by virtue of sale deed dated 04.09.2014. When the petitioner intended to construct a house in the subject property and applied for a housing loan with the bank, it was found that an inadvertent error had crept in in the sale deed dated 04.09.2014 that in the schedule of property, the Plot Number was mentioned as “Plot

No.42/2” instead of “Plot No.4/2”. As it was a registered instrument, the same has to be corrected only by a rectification deed. The above said mistake was only a typographical error. Hence, the petitioner along with his vendor executed a rectification deed dated 19.10.2015 and presented before the second respondent. The second respondent insisted for payment of the stamp duty of Rs.16,920/- and also collected the registration charge of Rs.2,570/-. As the petitioner was in a hurry to get the loan sanctioned, he had paid the said stamp duty and the registration charges and got the rectification deed registered. In fact, it is stated that the stamp duty was demanded by the second respondent only based on Circular No.40756/N1/2014, dated 03.09.2014. The said circular mentions that if there is only a change in the Survey Number, which would include/substitute a different property altogether, then the additional stamp duty has to be paid, whereas, in this case, admittedly, it is only a typographical error, where instead of “Plot No.4/2” it was mentioned as “Plot No.42/2”, which is an inadvertent mistake. Other than this, there is no change in Survey Number, boundaries or even extent of the land.

3. When there is no alteration in the basic nature of the document, especially in the extent and valuation of the property and the rectification is only of a typographical error, there is no question of application of Schedule I or application of Section 47-A of the Indian Stamp Act, 1899.

4. The learned counsel for the petitioner also produces a judgment of this Court reported in 2010-3-L.W. 252 (P.Uthamaraj vs. The District Registrar, Chennai South & others) in support of this case. The relevant portion of the said judgment is extracted hereunder:

> 11. It is no doubt true that section 47-A of the Act which is as follows:
>
> "47-A. Instruments of conveyance etc., under-valued how to be dealt with.-
>
> ....
>
> ... a reading of section 47-B it is clear that chargeability under Schedule I would be applicable only in cases where in the rectification deeds by making change in description of property from the previous instrument, the valuation is sought to be altered. It may arise in cases where by rectification the extent of the property is sought to be increased or altered by which the value of the property or superstructure

may get increased. In those cases, certainly by applying section 47-B of the Act, the difference in stamp duty can be recovered by making calculation as per Schedule I. In cases where by rectification, there is no alteration in the basic nature of the document, especially in the extent and valuation of the property or where the rectification is only in respect of technical aspect such as typographical error or where the rectification is in respect of extent of property while the actual measurement remains unchanged, there is no question of application of Schedule I or application of section 47-A of the Act.

5. In as much as the rectification deed does not alter the survey number, extent or value and it is only a typographical error, imposing stamp duty on the rectification deed is illegal. In view of the above, the stamp duty of Rs.16,920/- collected has to be refunded to the petitioner. Accordingly, the first respondent is directed to refund the said amount within a period of six weeks from the date of receipt of a copy of this order.

6. With the above directions, the writ petition is allowed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rsi

To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028.

2.The Sub Registrar,
O/o. Sub Registrar,
Neelangarai, Chennai.

+1cc to Mr.Babu Rangasamy Associates, Advocate, S.R.No. 24826
+1cc to the Government Pleader, S.R.No. 25089

W.P. No.8585 of 2016

SVI(CO)
GN(27/05/2019)