

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.02.2019

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.19740 of 2018 and
WMP.No.23182 of 2018

J.Thakur Bakshani

...Petitioner

Vs

1. The Sub Registrar Kodambakkam,
(District Registrar Rank)
Office of the Sub Registrar Kodambakkam,
Kodambakkam, Chennai-600 026.
2. The District Revenue Officer (Stamps)
Chennai-1.
3. The Tamil Nadu Principal Revenue Controller
and Inspector General of Registration,
Mylapore,
Chennai-4.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent in the show cause notice pertaining to pending Document No.P 192/2016 dated 12.08.2016 issued by the first respondent in respect of the release deed in favour of the petitioner which is sought to be registered on the file of the first respondent, in which the first respondent had sought for deficit stamp duty and registration fee and quashed the same as the same is without any legal basis and consequently direct the first respondent to release the aforesaid Release Deed dated 18.04.2016 which is held by the first respondent forthwith to the petitioner.

For Petitioner : Mr.A.Palaniappan
For Respondents : Mr.P.Purushothaman
Government Advocate

O R D E R

The petitioner has come up with this Writ Petition challenging the show cause notice issued by the first respondent on 12.08.2016, wherein the petitioner was directed to pay the deficit stamp duty of Rs.1,26,03,000/- and registration fee of Rs. 15,74,500/- and to quash the same and consequently for a direction to the first respondent to release the Release Deed dated 18.04.2016 which is held by the first respondent forthwith to the petitioner.

2. The case of the petitioner is that a partnership deed was entered on 14.05.1986 between the J.Thakur Bakshani and his mother Dadi Bhagawathi J.Bakshani. While so, the said Dadi Bhagawathi J.Bakshani died on 09.04.2000 leaving behind two sons and two daughters as her legal heirs. Subsequently, a release deed was executed on 18.04.2016 and was presented before the first respondent for registration. The first respondent issued show cause notice dated 12.08.2016, calling upon the petitioner to pay the deficit stamp duty calculated at Rs.1,26,03,000/- and the deficit registration fee at Rs.15,74,500/-. It is stated that the said notice was issued erroneously on the pretext that the relevant provision of stamping would be Section 55D(ii) in Schedule I of Indian Stamp Act. On 05.09.2016, the petitioner sent a reply to the show cause notice dated 12.08.2016 stating the sequence of events as to the present facts and circumstances, which was left unconsidered by the respondents. Further, the petitioner also sent letters dated 17.04.2017, 10.01.2018 and 07.08.2017 to the first respondent repeatedly seeking for return of release deed. Since, no action has been taken by the first respondent till date, the petitioner has come forward with this Writ Petition seeking for the relief stated supra.

3. Heard Mr.P.Purushothaman, the learned Government Advocate appearing on behalf of the respondents.

4. Admittedly, the petitioner has sent a reply to the show cause notice as early as on 05.09.2016. Now the show cause notice itself is being challenged as the one without jurisdiction.

5. Considering the aforesaid facts and circumstances of the case and having regard to the submissions made, without going into the merits of the case, this Court directs the first respondent to consider the reply given by the petitioner to the show cause notice dated 05.09.2016, and pass orders on merits and in accordance with law, after issuing notice to the petitioner and also affording due opportunity of hearing to him

as well as any of the interested parties, within a period of four weeks from the date of receipt of a copy of this order.

6. With the above direction, this writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

arr
To

1. The Sub Registrar Kodambakkam,
(District Registrar Rank)
Office of the Sub Registrar Kodambakkam,
Kodambakkam, Chennai-600 026.
2. The District Revenue Officer (Stamps)
Chennai-1.
3. The Tamil Nadu Principal Revenue Controller
and Inspector General of Registration,
Mylapore,
Chennai-4.

+1cc to Mr.A.Palaniappan, Advocate, S.R.No.8897

+1cc to the Government Pleader, S.R.No.9773

W.P.No.19740 of 2018

SVI (CO)
GSP (06/03/2019)

WEB COPY