IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.11.2019

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

WRIT PETITION NO.22279 OF 2019

S.M.Salahuddin .. Petitioner

/versus/

1.The Sub Registrar,
Chennai Central Joint-II,
Chennai.

2.The Inspector General of Stamps,
Santhome High Road,
Santhome,
Chennai 600 004. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to return the lease deed dated 14.03.2019 pending document No.P/Chennai Central Joint II/38/2019 of 2019 duly registered to the petitioner.

For Petitioner : Mr.D.Abdullah

For Respondents: Mr.T.M.Pappiah, Spl.G.P.
for R1 and R2

WEB COPY

O R D E R

This Writ Petition has been filed praying to issue a Writ of Mandamus directing the 1st respondent to return the lease deed dated 14.03.2019 pending document No.P/Chennai Central Joint II/38/2019 of 2019 duly registered to the petitioner.

2.Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for respondents 1 and 2.

https://hcservices.ecourts.gov.in/hcservices/

3.The grievance of the petitioner is that the lease deed presented for registration on 14.03.2019 before the first respondent has not been accepted by him in view of the charge created for deficit stamp duty under Section 47-A(1)(4) of the Indian Stamp Act, 1899. In the common order passed in C.M.A.Nos.135 and 136 of 2005 on 06.11.2017, this Court quashed the order of the first respondent demanding deficit stamp duty and as on date, there is no charge over the property for non-payment of deficit stamp duty. In such circumstances, the first respondent cannot refuse registration of the lease deed presented before the petitioner on 14.03.2019.

4.The learned Special Government Pleader appearing for the respondents submits that the respondents have preferred Special Leave Petition against the order passed in C.M.A.Nos.135 and 136 of 2005 and the same is pending before the Hon'ble Supreme Court. Since there is a charge created under Sub Section (4) of Section 47-A(1) of Indian Stamp Act, 1899, the 1st respondent cannot register any subsequent document unless the said charge is cleared by paying the deficit stamp duty by the petitioner. According to the petitioner, for each document pending Rs.15 lakhs is payable by the petitioner towards the deficit stamp duty and therefore, in view of Section 47-A(1)(4) of the Indian Stamp Act, 1899, the petitioner is not entitled for registration of the subsequent transaction.

5.No doubt, when there is a charge created upon the property for deficit stamp duty, there is a bar for subsequent registration of the document. However, in this case, as on date, there is no charge. After the order passed in C.M.A.Nos.135 and 136 of 2005, mere filing of Special Leave Petiton may not be an impediment for the Sub Registrar to register this document, more particularly when the counter of the respondents indicates that SLP has been preferred only recently and Diary Number.29000/2019 alone is assigned to the papers filed by the respondents. Therefore, strictly speaking, there is no SLP pending except some papers filed belatedly after 14 years.

WEB COPY

6.In such circumstances, the 1st respondent is hereby directed to register the lease deed presented by the petitioner on 14.03.2019 and return the same, after collecting the necessary stamp duty and registration charges, also getting an undertaking affidavit from the petitioner that he will abide by the order passed by the Hon'ble Supreme Court in the pending S.L.P. alleged to have been filed by the respondents. The 1st respondent shall comply this order within a period of one week

https://hcservices.ecourts.gov.in/hcservices/

from the date of receipt of the undertaking affidavit from the petitioner.

7.With the above direction, the writ petition is disposed of.No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ari

To:

1. The Sub Registrar,
Chennai Central Joint-II,
Chennai.

2. The Inspector General of Stamps,
Santhome High Road,
Santhome, Chennai 600 004.

+1cc to the Government Pleader, S.R.No.93357

W.P.No.22279 of 2019

PP(CO)
CS/13/12/2019

HIGH COURT OF JUDICATURE MADRAS
सत्यमेव जयते
WEB COPY
https://hcservices.ecourts.gov.in/hcservices/