

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE DR.G.JAYACHANDRAN

W.P.No.27344 of 2019 and
W.M.P.No.26777 of 2019

W.S.T & D Limited,
Rep. by its Authorised Signatory,
Thiru.B.Swaminathan,
No.108, Mount Poonamallee Road,
Porur, Chennai - 600 116Petitioner

Vs.

1. Inspector General of Registration,
Chief Controlling Revenue Authority,
No.120, Santhome High Road,
Chennai - 600 028
2. The District Registrar (Administration),
& Collector u/s.40 of the Indian Stamp Act, 1899,
(In the cadre of Assistant Inspector General of
Registration),
Chennai South Regn. District,
2nd Floor, SIDCO Electronics Complex,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai - 600 032
3. The Sub Registrar,
Kundrathur,
Chennai - 600 005

सत्यमेव जयते ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents to forthwith register and release the original Sale Deed dated 22.03.2019 kept pending for registration as Document No.P325/ 2019 before the third respondent; and the original Mortgage deed dated 22.03.2019 kept pending for registration as Document No.P326/2019 before the 3rd Respondent pending disposal of the Revision Petition pending before the 1st Respondent.

For Petitioner : Mr.P.S.Raman,
Senior Counsel,
for M/s.Ojas Law Firm

For Respondents: Mr.S.R.Rajagopal,
Additional Advocate General,
Asst by Mr.M.Thamizharasan,
Government Advocate

ORDER

The writ petition has been filed to direct the respondents to forthwith register and release the original Sale Deed dated 22.03.2019 kept pending for registration as Document No.P325/ 2019 before the third respondent; and the original Mortgage deed dated 22.03.2019 kept pending for registration as Document No.P326/2019 before the 3rd Respondent pending disposal of the Revision Petition pending before the 1st Respondent.

2. Heard the learned counsel for the petitioner.

3. The case of the petitioner is that he purchased the land to the extent of 16.40 acres from M/s.W.S.Industries (India) Limited for a total sale consideration of Rs.316 crores, out of which Rs.37,31,145/- was paid and the balance sale consideration for a sum of Rs.312,46,68,885/- being the existing and outstanding loan amount availed by M/s.W.S.Industries (India) Limited to be discharged by the purchaser. The land has been taken over by the purchaser.

4. Now while registering the document it was questioned whether the sale and mortgage has been treated as single transaction or two distinct transactions, one as a sale and another transfer of mortgage. In view of the said dispute, the sale deed and mortgage deed are retained by the Sub Registrar, Kundrathur and has issued show cause notice to the petitioner seeking payment of additional stamp duty charges to the tune of Rs.316 lakhs. Aggrieved by the same, the petitioner has preferred revision before the Inspector General of Registration and the same is pending. The case of the

petitioner is that pursuant to the transaction with M/s.Abhishaya Infrastructure Private Limited, they are insisting upon original deed which is now been kept pending by the Sub Registrar and which is subject matter of revision before the first respondent. The petitioner is in need of the original document to be produced before the financial company on or before 20th of this Month.

5. The learned Additional Advocate General submits that it will take six to eight weeks to dispose of the revision petition. Under the given circumstances the petitioner herein is ready to furnish bank guarantee for a sum of Rs.316 lakhs valid for six months as condition to return of the original document pending disposal of the revision petition. The petitioner further submits that, if the first respondent holds against them, the bank guarantee may be invoked.

6. On considering the plea this Court in order to balance the convenience of the petitioner and to protect the interest of State, Court allow the writ petition on the following terms:

(i) The petitioner herein shall furnish irrevocable bank guarantee for a sum of Rs.316 lakhs in favour of Sub Registrar, Kundrathur. The bank guarantee shall be valid for six months and renewable if necessary.

(ii) The first respondent is directed to dispose of the revision petition filed by the petitioner within a period of eight weeks from today.

(iii) On furnishing the bank guarantee, the Sub Registrar shall register and return the documents to the petitioner within three days from the date of receipt of bank guarantee and the undertaking letter from the petitioner. Consequently, connected miscellaneous petition is closed. No costs.

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Sd/-
Assistant Registrar (CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. Inspector General of Registration,
Chief Controlling Revenue Authority,
No.120, Santhome High Road,
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Chennai - 600 005

+5ccs to M/s.Ojas Law Firm, Advocate SR.No. 79407
W.P.No.27344 of 2019 and
W.M.P.No.26777 of 2019
A.SK(16/09/2019)



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