IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.12095 of 2020

Abhilash P Jain
S/o. D.B.Prakashchand Jain ...Petitioner

-Vs-

1. The Inspector General of Registration
   Santhome High Road Chennai-28

2. The District Registrar
   Cuddalore District

3. The Sub Registrar
   Vadalur - 607 303. ...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 3rd respondent to register the Settlement Deed executed in favour of his wife complete the registration of the Settlement Deed on payment of necessary stamp duty and registration fee without insisting for payment of stamp duty on the Sale Certificate issued by the Revenue Officer Debt Recovery Tribunal Mumbai bearing No. MDRT-1/ O.A.179/ 01/ 16/ 2004 and any further transactions pertaining to lands comprised in the Survey Nos.199/1 199/2 199/3 199/4 199/5 199/7 199/9 199/10 199/11 200/12 (Part), 200/13 (Part), 200/14(Part), 204/1, 204/2, 204/3 (Part), 204/5 (Part), 204/6 (Part), 204/7, 204/8 (Part), 204/9, 204/10 (Part), 204/11 (Part), 204/17 (Part), 204/12, 204/13, 204/14, 204/15 (Part), 204/16, 204/17 (Part), 206/1, 206/2 (Part), 206/3 (Part), 206/5 (Part), 206/9 (Part) situated Vadakuthu village, Kurinjipadi Taluk, Cuddalore District subject matter of the Sale Certificate.

For Petitioner : Mr.S.R.Raghunathan

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

O R D E R

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the third respondent to register the Settlement Deed presented by the petitioner and release the documents within the time stipulated by this Court.

2. The case of the petitioner is that originally the Sale Certificate was issued in favour of the father of the petitioner by the Debts Recovery Tribunal, Mumbai and the father of the petitioner in turn executed a Settlement Deed in favour of the petitioner and his brother and when the same was presented for registration, it was kept as a pending document. The third respondent did not assign regular registration number and the documents were not released. It was done on the ground that the Sale Certificate dated 26.10.2004 which was issued in favour of the father of the petitioner was not registered and appropriate stamp duty was not paid.

3. The order passed by the first respondent dated 20.04.2012 was challenged by the father of the petitioner in W.P.No.23618 and 25628 of 2012. This Court by an order dated 24.02.2014 was pleased to allow the writ petition and directed the third respondent to complete the registration of the document which was kept as pending document within a period of three weeks.

4. Aggrieved by the above order, the respondents filed W.A.Nos.570 & 571 of 2014. An interim order was passed in these Writ Appeals on 20.09.2017 and the relevant portion of the order is extracted herein.

> "Mr.S.R.Raghunathan, who appears for the respondents, has taken instructions. Learned counsel says as per the calculation submitted by Mr.P.S.Siva Shanmugasundaram, learned Special Government Pleader, a Fixed Deposit Receipt (FDR) of a nationalised Bank favouring the Registrar General of this Court in the sum of Rs.27,60,190/- will be submitted pending disposal of the appeal, in order to secure release of the subject documents. Learned counsel says that the said FDR will be submitted within a period of two (2) weeks, without prejudice to the rights and contentions of the respondents in the pending appeals."

5. Pursuant to the above order, the amount was deposited as directed by this Court and the Writ Appeals are pending till

date. In the mean time, the documents were registered and handed over to the father of the petitioner.

6. The petitioner executed a Settlement Deed in favour of his wife and this document was presented for registration before the third respondent. This document was not entertained for registration on the ground that there is a deficit stamp duty and registration fee and unless the same is paid, the document will not be entertained. Aggrieved by the same, the present writ petition has been filed before this Court seeking for appropriate direction.

7. Heard Mr.S.K.Raghunathan, learned counsel for the petitioner and Mr.T.M.Pappiah, learned counsel for the respondents.

8. In the considered view of this Court, as seen from the order extracted supra, the stamp duty and the registration fee is now secure and it continues to remain in fixed deposit. Therefore, ultimately if the respondents succeed in the Writ Appeals, the amount will directly go into the Revenue. That apart, the Settlement Deed executed by the father of the petitioner has been registered and the documents have been released, pursuant to which the petitioner has become the owner of the subject property. The petitioner wants to settle the property in favour of his wife and therefore Settlement Deed has been executed and presented for registration before the third respondent.

9. The Settlement Deed is not entertained by the third respondent on the ground that there is a deficit stamp duty and registration fee payable towards the original Sale Certificate. This issue is the subject matter of the pending writ appeals in W.A.Nos.570 and 571 of 2014. If the respondents succeed in the Writ Appeals, the amount that has already been deposited will go into the Revenue. If the appeals are dismissed, the amount will be refunded to the petitioner and his brother. Either way, the amount is secure and therefore the third respondent cannot take a stand that there is deficit stamp duty and registration fee.

10. In view of the above discussion, there shall be a direction to the third respondent to entertain the Settlement Deed executed by the petitioner in favour of his wife and register the same, if it is otherwise in order. It goes without saying that the petitioner will pay necessary stamp duty and the registration fees towards the settlement deed. This direction is given without prejudice to the rights of the parties in the pending Writ Appeal Nos.570 and 571 of 2014.

11. This Writ Petition is disposed of with the above

directions. No costs.

s/d
Assistant Registrar

True Copy

Sub-Assistant Registrar

KST

To

1 The Inspector General of Registration,
Santhome High Road
Chennai-28

2 The District Registrar,
Cuddalore District

3 The Sub Registrar,
Vadalur - 607 303.

4 The Revenue Officer,
Debt of Recovery Tribunal,
Mumbai.

+cc to Mr.S.R.Ragunathan, Advocate, SR.No.29201

+cc to The Government Pleader, SR.No.29256

W.P.No.12095 of 2020

PP(CO)
RN(27/11/2020)