In the High Court of Judicature at Madras

Dated : 13.1.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.31405 of 2017 & WMP.Nos.34534 to 34536 of 2017

S.Priyadarsan ...Petitioner

Vs

1.The Sub Registrar,
Sub Registrar Office,
Velacherry,
Chennai-42.

2.The District Revenue Officer (Stamps),
O/o The District Revenue Officer,
5th Floor, Collector's Office,
Singaravelar Malligai, No.32,
Rajaji Road, Chennai-1.

3.The Inspector General of Registration,
Inspector General of Registration Office,
No.100, Santhome High Road,
Inspector
R.A.Puram, Chennai-28. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent dated 12.9.2016 in Muo.Mu.No.422 of 2016 and the further communication of the 1st respondent dated 13.10.2016 bearing Serial No. 24/16 to the 2nd respondent culminating into a notice of the 2nd respondent undated October 2016 in Form No.1 however signed on 19.10.2016 followed by a communication dated 23.9.2017 of the 1st respondent enclosing the modified report, quash the same as illegal and without jurisdiction and consequently direct the 1st respondent to release the original document being sale deed dated 04.4.2016 and registered as document bearing No. 4068 of 2016 in the office of the 1st respondent herein to the petitioner herein.

For Petitioner : Mr.A.C.Kumaragurubaran

For Respondents: Mr.P.P.Purushothaman, GA

ORDER

I have heard Mr.A.C.Kumaragurubaran, learned counsel for the petitioner and Mr.P.P.Purushothaman, learned Government Advocate appearing for the respondents. With consent, the writ petition itself is taken up for final disposal.

2. The petitioner is before this Court challenging the notices issued by the second respondent - the District Revenue Officer (Stamps), Chennai-1 in exercise of his powers under Section 47A of the Indian Stamp Act.

3. The case of the petitioner is that the lands comprised in S.Nos. 327/16, 327/17, 331/10, 330/11 and 330/13 totally measuring an extent of 2 acres and 83.5 cents originally belonged to one Mr.Shafiq Mohammed Shah and 13 others, that the petitioner was stated to have entered into a promoters agreement on 26.11.2012 with the land owners represented by their power agent and one Mr.P.S.Srijan Reality and two others as promoters and had agreed to purchase an extent of 2,670 sq.ft., of undivided share of land out of the large extent of land as mentioned above for a sale consideration of Rs.3,20,40,000/-.

4. The petitioner would further state that the promoters agreed to put up a construction for the petitioner with a super built up area of 10,336 sq.ft., in the third and fourth floors of the building proposed to be constructed at the rate of Rs.3,29,04,000/- and that a part payment was made by way of cheque dated 19.11.2012 for a sum of Rs.50 lakhs and another cheque dated 26.11.2012 for a sum of Rs.1,05,04,000/-.

5. It is further stated that the land owners executed a registered sale deed dated 04.4.2016 conveying an extent of undivided share of land alone measuring an extent of 2,670 sq. ft., of undivided share of the land. However, the first respondent did not register and release the document, but kept the same as pending and assigned Doc.No.P/20 of 2016 for want of verification of the original promoters agreement. The petitioner would further state that in spite of producing the original promoters agreement, the first respondent neither registered nor released the document.

6. While so, the petitioner was served with the notice dated 12.9.2016 by the first respondent calling upon him to pay a sum of Rs.11,45,333/- towards difference of stamp duty, Rs.1,63,620/- towards registration charges and Rs.1,047/- towards miscellaneous charges to enable him to release the document. Thereafter, the staff working under the petitioner was stated to have met the first respondent and explained that in respect of another sale deed bearing doc.No.24/2016 pertaining to the petitioner's wife was registered and released and that

there was no reason to keep the petitioner's document alone pending.

7. Further, the petitioner placed reliance on a circular issued by the third respondent in Circular No.16345/C2/2013 dated 28.10.2013 and stated that the promoters agreement having been entered into much prior to the coming into force of the Tamil Nadu Act 18 of 2013, the petitioner is not liable to pay any stamp duty for the building and consequently any additional registration charges. This objection was raised by the petitioner in writing by letter dated 24.11.2016 and submitted to the second respondent. Though such an objection was raised, the same has not yet been considered and in the meantime, a revised notice under Section 47(A) of the Act was issued on 23.9.2017.

8. The learned counsel for the petitioner would contend that the second respondent cannot demand any additional stamp duty in the light of the said Circular dated 28.10.2013, which clearly states that the construction/promoters agreement is not required to be registered if the same is executed prior to 01.10.2013. He would further contend that the first payment was made by the petitioner prior to 01.10.2013 and that the same was established before the Registering Authority by producing the original promoters agreement. The learned counsel would further reiterate that the document, which was executed in favour of the petitioner's wife (marriage since dissolved), was registered and released without any objection and that therefore, the petitioner cannot be discriminated.

9. Per contra, the learned Government Advocate, on instructions from the respondents, would submit that the document executed in favour of the petitioner's wife is also now pending before the second respondent for payment of additional stamp duty and registration charges and apart from the petitioner's document, three other documents bearing Nos.4065-4067 of 2013 are also pending before the second respondent for deciding the correct stamp duty payable.

10. In the light of the above facts, it is clear that the case of the petitioner rests upon the said Circular issued by the third respondent dated 28.10.2013. The petitioner having responded to Form I notice dated NIL.10.2016, it is incumbent on the part of the second respondent to consider the objection and pass a speaking order so as to enable the petitioner to work out his remedies in accordance with law. If there are four other documents, which pertain to the very same property and if the same are also pending before the second respondent, then all the documents should be dealt together and a speaking order should be passed by the second respondent. There is no reason as to why

the second respondent kept the matter pending since 2017.

11. For the above reasons, the writ petition stands disposed of with a direction to the second respondent to consider the petitioner's objection dated 24.11.2016, afford an opportunity of personal hearing to the authorized representative of the petitioner, take a decision and pass a speaking order on merits and in accordance with law. It will be well open to the second respondent to take up the other four documents, which are stated to be pending before him, consider and pass necessary orders in terms of the above direction. This direction shall be complied with by the second respondent within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

To

1.The Sub Registrar,
Velacherry, Chennai-42.

2.The District Revenue Officer (Stamps),
5th Floor, Collector's Office,
Singaravelar Malligai, No.32,
Rajaji Road, Chennai-1.

3.The Inspector General of Registration,
No.100, Santhome High Road,
R.A.Puram, Chennai-28.

+1cc to Mr.A.Kumaragurubaran, Advocate, S.R.No. 3044
+1cc to the Government Pleader, S.R.No. 3934

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CA(CO)
GN(17/02/2020)