



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **04.11.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **S.VAIDYANATHAN**

W.P(MD)No.14426 of 2020

and

W.M.P. (MD) .Nos.12071, 12073 and 12074 of 2020

1.P.Indira
2.B.Kalaimathi

... Petitioners

Vs.

1.The Special Deputy Collector (Stamps),
Madurai Collector Office,
Madurai-20

2.The District Registrar Administration,
Dindigul West Taluk,
Dindigul.

3.The Sub Registrar Joint-I,
Dindigul.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records in Na.Ka.No.5811/A3/2018, dated 18.07.2019 passed by the 2nd Respondent and in consequence the demand by notice dated nil for payment of additional Non-Judicial Stamps by the 3rd Respondent must be quashed and consequently direct the 3rd Respondent to issue fresh encumbrance Certificate mentioning that only Survey Nos.758/7I, 758/7J, 758/7K, 758/7L admeasuring 1564 sq.ft of land alone is subject of sale deed Document No.1338 of 2018.

For Petitioners	:	Mr.M.S.Suresh Kumar
For Respondents	:	Mr.K.Sathiya Singh Additional Government Pleader

ORDER

The petitioner has filed this Writ of Certiorarified Mandamus, to call for the records in Na.Ka.No.5811/A3/2018, dated 18.07.2019 passed by the 2nd Respondent and in consequence the demand by notice, dated nil for payment of additional Non-Judicial Stamps by the 3rd Respondent must be quashed and consequently direct the 3rd Respondent to issue fresh encumbrance Certificate mentioning that only Survey Nos.758/7I, 758/7J, 758/7K, 758/7L admeasuring 1564 sq.ft of land alone is subject of sale deed Document No.1338 of 2018.



2. By consent, the writ petition is taken up for disposal at the admission stage itself.

3. Mr.K.Sathiya Singh, learned Additional Government Pleader takes notice for the respondents.

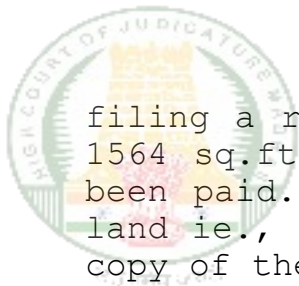
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4. The case of the petitioners is that the first petitioner is the owner of the several lands as per the settlement deed dated 28.12.2010 registered as Doc.No.4660/2010 Joint-1. As per item 7 of the above settlement deed, the first petitioner sold 1564 sq.ft., in Plot No.44 out of 9093 $\frac{3}{4}$ sq.ft., to the second petitioner as per the sale deed, dated 17.05.2018 registered as Doc.No.1338/2018 at the third respondent office and the sale deed also returned. The second petitioner took possession and also got Patta No.8717 in her name. The second petitioner received a notice dated NIL from the third respondent that she had paid less stamp duty and therefore, there is a loss of Rs.2,99,351/- to the respondent and called them for enquiry before the second respondent. On 18.07.2019 the second respondent vide his impugned proceedings rejected their plea. The subject matter of sale deed in Doc.No.1338 of 2018 dated 17.05.2018 is with regard to 1564 sq.ft., alone in Survey Nos.758/7I, 758/7J, 758/7K, 758/7L and not the entire property mentioned in the sale deed. Hence, the order impugned in this writ petition dated 18.07.2019 is bad in law. Therefore, the petitioner has approached this Court.

5. Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the respondents.

6. Mr.K.Sathiya Singh, learned Additional Government Pleader appearing for the respondents would contend that the sale deed clearly shows the entire extent of property for which necessary stamp papers have got to be purchased and as there was a shortfall, the authority concerned has rightly passed an order under Section 47A(3) of the Stamp Act, asking the second petitioner to pay the amount.

7. According to the petitioner, he has purchased 1564 sq.ft. of the land out of the larger extent. But unfortunately, in the sale deed the schedule of the property has not been properly given that is total extent of the property have been shown in Schedule-A and the total extent which have been purchased from Schedule-A is shown as Schedule-B. Since error has crept in, the respondents are demanding charges by the notice dated NIL to pay for the entire extent of the land mentioned in the settlement deed. The decision taken by the respondents cannot be found fault with since it appears that there is a typographical error. Admittedly, the petitioner purchased only an extent of 1564 sq.ft., and not the entire property. Hence, it is open to the second petitioner and the first respondent to get the sale deed corrected for



filing a rectification deed so that a fresh demand to an extent of 1564 sq.ft., alone be demanded in case the extended amount has not been paid. The petitioner has paid lesser charges to the extent of land ie., 1564 sq.ft. And the second petitioner has also received a copy of the sale deed.

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8. Hence, it is open to the petitioner and the party, who sold the property to jointly file rectification deed to correct the mistake that has crept in the sale deed. Hence, no further order is required in the writ petition. Once a rectification deed is filed, the Sub Registrar will have to register the same unless and otherwise there are legal impediments appears. Once the rectification deed is given, the original impugned order will stand automatically go.

9. With the above observation, this Writ Petition stands disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (SJ)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Special Deputy Collector (Stamps),
Madurai Collector Office, Madurai-20

2.The District Registrar Administration,
Dindigul West Taluk, Dindigul.

3.The Sub Registrar Joint-I, Dindigul.

+1 CC to Mr.M.S.Suresh Kumar ,Advocate, in SR.No.21215 of 2020.

+1 CC to Special Government Pleader SR.No.21332 of 2020.

W.P (MD) No.14426 of 2020
04.11.2020

(SJ) CO

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