

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.03.2021

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.Nos.12880 and 12881 of 2011
and
W.M.P.Nos.1 and 2 of 2021

1.Mumtaj Begum
2.C.M.B.Ashiq Buhari
3.C.M.B.Irfan Buhari
4.C.M.B.Ahamed Mustaz Buhari Petitioners in both W.Ps

Vs.

1.The Sub Registrar,
Periamet,
Chennai-600 003.
2.The District Collector,
Chennai District,
District Collectorate,
M.Singaravelar Maaligai,
62, Rajaji Salai,
Chennai-600 001.
3.The District Revenue Officer,
District Collectorate,
M.Singaravelar Maaligai,
62, Rajaji Salai,
Chennai-600 001. Respondents in both W.Ps

Common Prayer: Petitions filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to return the original sale deed dated 10.03.2005 registered as Document Nos.507 and 508 of 2005 on the file of the first respondent, Sub Registrar, Periamet, Chennai-600 003 and direct the respondents to collect the deficit stamp duty, if any, by following procedure established under the Indian Stamp Act, 1899 and Tamil Nadu Stamp (Prevention of Under Valuation of Instruments) Rules 1968 and other relevant rules.

For Petitioners : Mr.M.Abdual Nazeer
(In both W.Ps.)
For Respondents : Mr.B.Kannan
(In both W.Ps)

COMMON ORDER

These writ petitions are filed for issuance of Writ of Mandamus, to direct the respondents to return the original sale deeds dated 10.03.2005 registered as Document Nos.507 and 508 of 2005 on the file of the first respondent, Sub Registrar, Periamet, Chennai-600 003 and direct the respondents to collect the deficit stamp duty, if any, by following procedures established under the Indian Stamp Act, 1899 and Tamil Nadu Stamp (Prevention of Under Valuation of Instruments) Rules 1968 and other relevant rules.

2.The brief facts that are necessary for disposal of the writ petitions are as follows:-

The petitioners purchased the property measuring an extent of 1260 Square feet from one Guru Marudhar Kesari Estates by a sale deed dated 10.03.2005 registered as document Nos.507 and 508 of 2005 on the file of the Sub Registrar, Periamet, Chennai. It is stated that the petitioners also purchased several properties and registered several documents. It is stated that the documents of sale dated 30.08.2007 registered as document No.1957 and 1960 of 2007 were returned to the petitioners. It is the case of the petitioners that they have not received any communication from the respondents with regard to deficit stamp duty and the respondents have not issued any notice for personal hearing to the petitioners with respect to the Doc.Nos.507 and 508 of 2005.

3.The learned counsel for the petitioners have relied upon a few judgments for the proposition that the document after registration need not be withheld even if proceedings are initiated for under valuation under Section 47(A) of the Indian Stamp Act, 1899.

4.The learned Additional Government Pleader on instructions states that the petitioners have paid the deficit Stamp Duty and therefore the case originally initiated for under valuation has come to a logical end.

5.In the present case, it is admitted that the respondents have not returned the original documents to the petitioners. Where it is the case of respondent that the petitioner has paid the deficit stamp as determined, the the documents have to be returned. Hence, these writ petitions are allowed. No Costs.

6.The respondents are directed to return the original sale deeds within a period of two weeks from the date of receipt of a copy of this order. It is open to take appropriate action as may be required even if the petitioners have to pay any further amount towards deficit stamp duty.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

tta

Copy to

1. The Sub Registrar,
Periamet,
Chennai-600 003.
2. The District Collector,
Chennai District,
District Collectorate,
M.Singaravelar Maaligai,
62, Rajaji Salai,
Chennai-600 001.
3. The District Revenue Officer,
District Collectorate,
M.Singaravelar Maaligai,
62, Rajaji Salai,
Chennai-600 001.

+2CC to Mr.M. Abdul Nazeer, Advocate SR No 18974
+1CC to Government Pleader SR No 18634

WEB COPY

W.P.Nos.12880 and 12881 of 2011

CP(co)
SRG 12/07/2021