IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.17435 of 2012

V.R.Gunasekaran ... Petitioner

-Vs-

1.The Inspector General of Registration
cum Chief Revenue Controlling Authority,
Santhome, Chennai 600 028

2.District Revenue Officer(Stamps),
Office of the District Collector,
5th Floor, M.Singaravelan Malligai,
No.32, Rajaji Salai, Chennai 600 001

3.Sub Registrar,
Neelankarai,
Chennai 600 041 ... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondents to return the sale deed dated 29.11.2007 registered as document No.5934/2007 on the file of the third respondent herein to the petitioner.

For petitioner : Mr.K.Sridhar
for M/s.K.Sridhar Associates

For Respondents: Mr.Richardson Wilson,
Government Advocate

ORDER

The Writ Petition has been filed to issue a writ of mandamus directing the respondents to return the sale deed dated 29.11.2007 registered as document No.5934/2007 on the file of the third respondent herein to the petitioner.

2. The case of the petitioner is that the petitioner purchased the undivided share by the sale deed dated 29.11.2007 for the total sale consideration of Rs.75,00,000/-. The sale deed was presented for registration and registered as document

No.5934/2007 on the file of the third respondent herein. The property was valued at the then prevailing guideline value and proportionate stamp duty was paid. However, the third respondent refused to release the document for the reason that the petitioner has under valued the property and as such the third respondent proposed to initiate proceedings under Section 47-A of the Indian Stamp Act. Thereafter, the second respondent herein has now directed the petitioner to pay deficit stamp duty at Rs.11,66,720/- by order dated 27.09.2011. Though the respondents 2 and 3 initiated proceedings under Sections 47-A of the Indian Stamp Act, they cannot hold the document as pending, since already the document was registered vide document No.5934 of 2007. In this regard it is relevant to rely upon the judgment in the case of B.Rajappa and another Vs. The Special Deputy Collector (Stamps), Madras and two others reported in 2002 (3) CTC 544, wherein it is held as follows:

> 13. In the light of the said provisions, the learned Advocate General had to necessarily admit that the respondents have no authority or jurisdiction to retain the documents once it has been registered. Even assuming that there is scope for reference in respect of alleged under-valuation, the registering authority has no authority to retain the documents and this is also clear from the provisions of Sections 52, 59 and 60 of The Indian Registration Act.

This court held that the respondents have no authority or jurisdiction to retain the documents once it has been registered. Even assuming that there is scope for reference in respect of alleged under-valuation, the registering authority has no authority to retain the documents and this is also clear from the provisions of Sections 52, 59 and 60 of The Indian Registration Act. This Court also issued directions as follows:

> "i) It is open to the Registering Authority to affix a seal, while releasing the original deed or conveyance or any other document indicating that a reference is pending under Section 47-A with respect to under-valuation and assessment of Stamp Duly payable, as and when the proceedings reach finality, the same shall be intimated to the person who is liable to pay stamp duty demanding payment of deficit Stamp Duty payable on the instrument.
>
> ii) The Registrar to make corresponding entries under Sections 54, 55 of The Registration Act, 1908, in the Register of indexes as to pendency of proceedings under Section 47-A.
>
> iii) On completion of adjudication as to the under-valuation by the competent authority as well as appeal or revision, if any, thereof, and

depending upon the ultimate decision, the said authorities to recover deficit stamp duly according to law.

iv) Till such proceeding reaches finality and deficit is paid, there will be a charge for the deficit stamp duly, which is the subject matter of transfer or conveyance.

v) On payment of deficit stamp duty, if any payable, the Registrar may once again, on production of the original deed of transfer, make appropriate entry and recording the additional stamp duty paid and release of charge and also make consequential entries in the registers/indexes maintained under Sections 54, 55, etc., of The Registration Act."

3. In the case on hand, after registration of sale deed vide document No.5934 of 2007 dated 29.11.2007, the third respondent initiated proceedings under Section 47-A of the Indian Stamp Act. However, the third respondent has no authority or jurisdiction to retain the document which was already registered.

4. The Government Advocate appearing for the respondents submitted that while pending this writ petition, sale deed registered vide document No.5934 of 2007 dated 29.11.2007 was released in favour of the petitioner herein.

5. Therefore, the third respondent is directed to release the sale deed registered vide document No.5934 of 2007 dated 29.11.2007 after creating charge over the property in respect of deficit stamp duty forthwith, if not already released in favour of the petitioner herein.

6. Accordingly, this writ petition is allowed. However, the third respondent is at liberty to proceed under Section 47-A of the Indian Stamp Act. No order as to costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector General of Registration
cum Chief Revenue Controlling Authority,
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Office of the District Collector,
5th Floor, M.Singaravelan Malligai,
No.32, Rajaji Salai, Chennai 600 001

3.Sub Registrar,
Neelankarai,
Chennai 600 041

+1cc to Mr.K.Sridhar, Advocate, S.R.No. 46973
+1cc to the Government Pleader, S.R.No. 47551

W.P.No.17435 of 2012

KSM(CO)
GN(11/10/2021)