IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.28907 of 2013

1.Souwmya Narayanan
2.Meenakshi Ramanan ... Petitioners

Vs

1.The Inspector General of Registration,
120, Santhome High Road,
Chennai - 600 028.

2.The District Registrar of Nilgiris,
Ootacamund, Nilgiris.

3.The Sub Registrar,
Coonoor - 2, Nilgiris. ... Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to refund the sum of Rs.1,30,435/- collected by the respondents towards difference in Stamp duty and difference in Registration charges paid under protest by the petitioners on 14.06.2013.

For Petitioners : Mr.S.Kingston Jerold

For Respondents : Mr.M.R.Gokul Krishnan,
Government Advocate

O R D E R

This writ petition has been filed to issue a Writ of Mandamus directing the respondents to refund the sum of Rs.1,30,435/- collected by the respondents towards difference in Stamp duty and difference in Registration charges paid under protest by the petitioners on 14.06.2013.

2. The case of the petitioners is that the petitioners purchased the land to an extent of 14.26 cents by a registered sale deed dated 09.04.2008 vide Document No.688 of 2008 on the file of the third respondent for the valid sale consideration. Immediately, after the purchase the petitioners were put in

possession and they are in possession and enjoyment of the property.

3. However, they found that there is a mistake in the sale deed and as such they approached their vendor for rectify of rectification deed. Accordingly, the petitioners and their vendor agreed to rectify the rectification deed, rectifying the typographical error crept in the sale deed dated 09.04.2008. They presented the deed of rectification dated 14.06.2013 for registration before the third respondent.

4. However, it was subjected on the ground for the stamp duty is payable on the amount of the alleged difference of the value of the property as per the guideline value. The petitioners are being the permanent resident of Singapore and United States, could not contest the objections raised by the third respondent, therefore they paid the difference in stamp duty a sum of Rs.1,11,800/- and a sum of Rs.18,735/- towards the registration charges payable on the alleged difference for the value under protest.

5. On receipt of the said sum the third respondent registered the rectification deed vide Document No.1422 of 2013. The rectification deed is not required to be stamped as it was only to rectify the typographical error crepted in the sale deed which was registered with sufficient stamp duty and registration charges. Therefore, the petitioners issued notice for refund of stamp duty and registration charges which were paid during registration of rectification deed.

6. While pending this writ petition, the second respondent by the communication dated 06.12.2013 stated that the rectification deed presented for registration only to rectify the typographical error in respect of Survey Number and as such there is no difference in the value of the property which was registered earlier to collect deficit stamp duty and if did not attract the provision under Section 48(b) of the Stamp Act, thereby the second respondent recommended for refund of the stamp duty and the registration charge which were paid during the registration of rectification deed dated 14.06.2013. The relevant portion of the communication dated 06.12.2013 is extracted hereunder:

> "With reference to the subject matter, I am to inform that your petition regarding refund of excess stamp duty collected for Recommended deed No.1422/2013 has been duly considered on merits with the connected records.
>
> Having perused the relevant documents viz., 1422/2013, 688/2008 and 1482/1992 (The previous registration for 688/2008). I come

to the conclusion that the rectification deed registered by you is not an instrument as envisaged in sec 2(14) of the Indian Stamp act 1899, and is only a mere simple rectification deed which requires no stamp duty. And the error crept in sale deed No.688/2008 is only a typographical error as claimed by you based on the verification of records.

Hence a report to this effect is being sent to the Inspector General of Registration, with relevant records and pass suitable orders for refund of the excess stamp duty of Rs.1,11,800 and fees collected Rs.18,635 (Total Rs.1,30,435/-)."

7. In view of the above, recommendation made by the second respondent, the first respondent is directed to order refund of stamp duty of Rs.1,11,800/- and the registration fees of Rs.18,635/- collected during the registration of rectification deed dated 14.06.2013 registered vide Document No.1422 of 2013 on the file of the third respondent within a period of two weeks from the date of receipt of a copy of this order.

8. Accordingly, this writ petition is allowed. No order as to costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

1.The Inspector General of Registration,
120, Santhome High Road,
Chennai - 600 028.

2.The District Registrar of Nilgiris,
Ootacamund, Nilgiris.

3.The Sub Registrar,
Coonoor - 2, Nilgiris.

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