IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 5867 of 2018

M.Saravanan .. Petitioner

Vs

1.The Inspector General of Registration,
Santhome High Road,
Chennai.

2.The Deputy Collector for Stamps,
(Namkkal District),
3rd Floor, Collector Office complex,
Salem – 1.

3.The Sub-Registrar,
Tiruchengode,
Namakkal District. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents 2 and 3 herein to return the document dated 21.11.2014 presented for registration on 11.12.2014 under Doc. No.201408062.

For Petitioner : Mr. T.L.Thirumalaisamy
For Respondent 1-3 : Mr. B.Kannan
Government Advocate

O R D E R

This writ petition is filed for issuing a writ of Mandamus directing the respondents 2 and 3 herein to return the document dated 21.11.2014 presented for registration on 11.12.2014 under Doc. No.201408062.

2. It is stated that the petitioner purchased a property by a document dated 21.11.2014. It is admitted that the petitioner's vendor purchased the property by a previous document dated 16.07.2013 and that the petitioner's vendor had also paid the deficit stamp duty that was assessed for releasing

the document in favour of the petitioner's vendor. In these circumstances, it is stated that the subsequent sale deed under which the petitioner purchased the property though was registered, has not been returned to the petitioner so far and that the document is kept pending for no valid reasons. Aggrieved by the same, this writ petition is filed by the petitioner.

3. The third respondent has filed a counter affidavit. It is stated in the counter affidavit that the document was registered as document No.8062 of 2014 and that the matter has been referred for undervaluation under Section 47 A of Indian Stamp Act. It is contended by the respondent that market value was not properly set forth in the document of sale and that therefore they have every right to keep the document till the reference under Section 47 A of the Indian Stamp Act, is decided. The respondent also relied upon the judgment of the Division Bench of this Court dated 09.10.2017 made in a batch of writ petitions in W.P. (MD) Nos.1176 to 1179 of 2017.

4. There is a limitation even for initiating proceedings under Section 47 A of the Indian Stamp Act. When it is admitted that the document was registered in 2014, immediately after registration the petitioner is entitled to get the document. In view of the procedure prescribed under the Act, for the recovery of deficit stamp duty, the Registering Authority, by keeping the document without finalising the proceedings under Section 47 A of the Indian Stamp Act, can only damage or cause loss to the petitioner for no purpose. Keeping the original document with the Registrar is not going to help the respondent in making a true assessment of market value or for realising the money. The remedy available to the respondent to proceed against the property under the Revenue Recovery Act, 1890, gives full protection to the respondent to recover any money that is found due by way of deficit stamp duty or penalty. In such circumstances, this Court earlier repeatedly held that the Registrar has no power to keep the document after registration and that several directions were issued to the Registering Authorities to release the document after getting proper endorsement in the document itself with regard to the pendency of the proceedings under Section 47 A of the Indian Stamps Act. Despite a dissenting view expressed by a Division Bench of this Court being relied upon in the counter affidavit, this Court is of the view that it will be against public policy to permit the respondent to retain the document till the proceedings under Section 47 A of the Indian Stamps Act, come to an end. The petitioner apart from facing proceedings, will undergo irretrievable damage and sufferings in case, the document is not returned to the owner. The petitioner will be unnecessarily put to hardships by refusing to hand over the document. If the

purchaser of the property, after investment, is prevented from dealing with the property in any manner, that will be against equitable principles. When as the individual's interest will be put in jeopardy for no corresponding benefit or gain for the respondent by keeping the document, this Court has no hesitation to follow the principles reiterated in majority of judgments.

5. For the reasons stated above, this Court is inclined to allow the writ petition. The respondents 2 and 3 are directed to return the document dated 21.11.2014 presented for registration on 11.12.2014, after registration, if necessary, by making an endorsement with regard to pendency of proceedings, if any under Section 47 A of Indian Stamp Act.

Accordingly, this writ petition is allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

bkn

To

1.The Inspector General of Registration,
Santhome High Road,
Chennai.

2.The Deputy Collector for Stamps,
(Namkkal District),
3rd Floor, Collector Office complex,
Salem - 1.

3.The Sub-Registrar,
Tiruchengode,
Namakkal District.

+1cc to Mr.T.L.Thirumalaisamy, Advocate, S.R.No.20650
+1cc to the Government Pleader, S.R.No.21033

W.P. No. 5867 of 2018

GPL(CO)
SB(14/07/2021)