IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.31670 of 2017

V.Loganathan ... Petitioner

-Vs-

1. Inspector General of Registration
   Office of Inspector General of Registration,
   Santhome, Chennai - 600 028.

2. District Revenue Officer (Stamps)
   Office of the Collector,
   5th Floor, Singaravelar Maligai,
   No.32, Rajaji Salai, Chennai - 1.

3. The Joint Sub-Registrar
   O/o. District Registrar,
   Chengalpet,
   Kancheepuram District. ... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the respondent to return the document vide sale deed in Document No.8631/2012, registered on 29.08.2012 on the file of 3rd respondent, pending disposal of the Appeal, dated 15.09.2017 filed under Section 47A (5) of the Indian Stamp Act by the first respondent.

For Petitioner : Ms.A.Kayal Vizhi

For Respondents : Mr.B.Kannan
Government Advocate

O R D E R

The prayer sought for herein is for the issuance of a Writ of Mandamus, to direct the respondent to return the document vide sale deed in Document No.8631/2012, registered on 29.08.2012 on the file of 3rd respondent, pending disposal of the Appeal, dated 15.09.2017 filed under Section 47A (5) of the Indian Stamp Act by the first respondent.

2. It is the case of the petitioner that, he has given a document for registration, i.e., sale deed, dated 29.08.2012. Though it was registered as Doc.No.8631 of 2012, the same was not returned by the Registering Authority to the petitioner, because as per the third respondent, there has been a deficit

stamp duty paid in this regard, therefore it has been referred for fixation of correct stamp duty, accordingly. the authority concerned under the provisions of the Stamps Act, has decided the value of the property and accordingly, the deficit court fee was directed to be paid by the proceedings, dated 04.08.2016.

3. As against the said order passed by the authority who fixed the land value as well as the corresponding deficit stamp duty with interest, the petitioner preferred appeal under Section 47A (5) of the Indian Stamp Act before the first respondent on 15.09.2017. The said appeal is still pending before the first respondent.

4. In that circumstances, pending disposal of the appeal, the petitioner has approached this Court by filing the present writ petition with the aforesaid prayer seeking to return the registered document to the petitioner.

5. Reiterating the aforesaid facts, Ms.Kayal Vizhi, learned counsel appearing for the petitioner, seeks indulgence of this Court to give a direction to the third respondent to return the registered sale deed / document to the petitioner.

6. However, Mr.B.Kannan, learned Government Advocate appearing for the respondents, on instruction would submit that, once deficit stamp duty has been directed to be paid, as against which, if appeal has been filed before the appellate authority under Section 47A (5) of the Indian Stamp Act, unless the appeal is decided, the document in question cannot be returned. However, if at all the appeal is pending right from the year 2017, attention would be given to the said appeal for early disposal and accordingly, within a time frame, the appeal would be disposed by the first respondent and depending upon the outcome of the appeal, the petitioner's plea can very well be decided.

7. I have considered the said submissions made by the learned Government Advocate appearing for the respondents and have perused the materials placed before this Court.

8. As rightly pointed out by the learned Government Advocate, as against the order passed by the authority under Section 47 of the Indian Stamp Act, where the land in question which is the subject matter in the document registered has been assessed and correct value of the land has been fixed by the authority, where deficit stamp duty also was found and directed to be paid with interest, as against which, since appeal has been filed by the petitioner before the first respondent, which is admittedly pending before the first respondent, unless and until the appeal is decided, the plea raised by the petitioner cannot be decided now.

9. In that view of the matter, this Court is inclined to

dispose of this writ petition with the following order :

(i) that the first respondent is hereby directed to decide and dispose the appeal filed by the petitioner against the order passed by the second respondent, dated 04.08.2016 under the provisions of the Stamp Act, i.e., 47A (5) on 15.09.2017 and pass orders thereon, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

(ii) It is needless to mention that, once the appeal is decided one way or other on merits by the first respondent - appellate authority, depending upon the outcome of the appeal, the petitioner can work out his remedy in the manner known to law.

10. With these observation and direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

Tsvn

To

1. Inspector General of Registration
   Office of Inspector General of Registration,
   Santhome, Chennai - 600 028.

2. District Revenue Officer (Stamps)
   Office of the Collector,
   5th Floor, Singaravelar Maligai,
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3. The Joint Sub-Registrar
   O/o. District Registrar,
   Chengalpet, Kancheepuram District.

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RSV(CO)
GN(22/06/2021)