IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 24210 of 2017

B.Dhamodaran ... Petitioner

Vs

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

2.The District Revenue Officer (Stamps),
Singaravelar Maaligai,
Chennai - 600 001.

3.The Joint Sub Registrar II,
Sub Registrar Office,
Chengalpattu,
Kanchipuram District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to release the original sale deed dated 26.12.2008 registered as document No.10457/2008, on the file of the third respondent, without insisting interest on the payment of deficit stamp duty, by considering the petitioner's representations dated 04.04.2017 and 07.07.2017.

For Petitioner : Mr. N.Manokaran

For Respondents: Mr. P.P.Purushothaman
Government Advocate

O R D E R

This Writ Petition has been filed for the issuance of Writ of Mandamus directing the respondents to release the original sale deed dated 26.12.2008, registered as document No.10457/2008, on the file of the third respondent, without insisting interest on the payment of deficit stamp duty, by considering the petitioner's representations dated 04.04.2017 and 07.07.2017.

2. The petitioner has purchased an extent of 39 cents in T.S. No.1180/2, Ward No.IV, Natham B Block, Chengalpattu Town, from previous owner under a sale deed dated 26.12.2008, which is registered as document No.10457 of 2008 on the file of third respondent. After registering the document, the third respondent referred the document for under valuation. It is admitted that the market value was assessed at the rate of Rs.300/- per sq.ft. and that the Petitioner was required to pay the deficit stamp duty of Rs.3,84,096/- less the amount for which the stamp duty affixed. Though learned counsel for the petitioner contended that the demand was without any enquiry and final order was passed without providing any sufficient opportunity to the petitioner, it is admitted that the proceedings initiated for collecting deficit stamp duty has become final.

3. Learned counsel for the petitioner submitted that the petitioner preferred a Writ Petition before this Court challenging the order of second respondent, and the same was disposed with a liberty to the petitioner to approach the Appellate Authority within a period of four weeks. It appears that the an appeal was also filed by the petitioner. However, it is admitted before this Court that the petitioner thereafter, expressed his willingness to pay deficit stamp duty. The petitioner has remitted deficit stamp duty for Rs.3,22,888/- on 04.04.2017 and produced chalan before the second respondent along with representation dated 04.04.2017. After the payment was made by the petitioner, the petitioner requested the second respondent to release the original sale deed dated 26.12.2008, without insisting for payment of interest for the deficit stamp duty.

4. The short point that arises before this Court for consideration is whether the petitioner is entitled to remit the deficit stamp duty without payment of interest. Having regard to the specific provision under Section 47A (4) Indian Stamp Act, every person is liable to pay difference of amount of duty along with interest at the rate of 1% per month. Though the petitioner has remitted the difference in the amount of duty as calculated, learned counsel for the petitioner admits that the no interest was paid for the deficit stamp duty.

5. It is seen that the document was presented for registration in the year 2008. The petitioner filed a Writ Petition in the year 2013 and the same was disposed in the year 2016. Further, an appeal was preferred by the petitioner but the petitioner paid the deficit stamp duty and acknowledged the finality of the order passed by the second respondent. In view of the statutory liability to pay interest for the deficit stamp duty, the petitioner cannot contend that he is not liable to pay

interest. Learned counsel for the petitioner submitted that the document was not released and that the proceedings are pending. The petitioner is required to pay exact stamp duty at the time of presentation of the document for registration. The petitioner cannot contend that the he need not pay interest. The deficit stamp duty payable will be determined in accordance with law. This Court is not inclined to accept the case of the petitioner since the liability to pay interest is statutory and no special circumstances is being pleaded or focused in this case.

As a result, this Writ Petition is devoid of merits and accordingly dismissed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

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

2.The District Revenue Officer (Stamps),
Singaravelar Maaligai,
Chennai - 600 001.

3.The Joint Sub Registrar II,
Sub Registrar Office,
Chengalpattu,
Kanchipuram District.

+1cc to Mr.N.Manokaran, Advocate Sr.4107
+1cc to the Government Pleader Sr.4210

W.P. No. 24210 of 2017

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srg 09/03/2021