BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2021

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)No.13775 of 2021

T.Sathishkumar ... Petitioner

Vs.

The Sub Registrar,
Sub Registrar Office, Thiruvaiyaru,
Thiruvaiyaru Taluk,
Thanjavur District. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the record pertaining of the original Refusal check slip passed by the respondent vide his proceedings in RFL/Thiruvaiyaaru/14/2021 dated 15.06.2021 and quash the same as illegal and pleased to pass an order to the respondent to allow the registration of Rectification deed in settlement deed No.272/2021 dated on 24.03.2021 with original rectification deed stamp duty and registration Rs.210.

For Petitioner : Mr.M.Vivek
For Respondent : Mr.P.Subbaraj,
Counsel for State.

ORDER

The petitioner challenges a refusal check slip dated 15.06.2021 issued by the Sub-Registrar, Thiruvaiyaaru.

2. The petitioner states that a settlement deed was executed on 12.02.2021. Subsequently, when the petitioner applied for a loan against mortgage, the bank officials indicated that there were discrepancies in the description of boundaries in the settlement deed. In specific, it was pointed out that there were typographical errors in the boundary descriptions. In order to rectify the said typographical errors, the petitioner prepared and submitted a rectification deed for registration. The said request for registration was rejected under the impugned check slip on the ground that the requisite stamp duty and registration fees had not been remitted in connection therewith. By the present Writ Petition, the petitioner assails the said order.

3. Mr.P.Subbaraj, learned counsel for the State, appears on behalf of the sole respondent. He submits that Circular No.40756/N1/2014 dated 03.09.2014 was issued by the Inspector General of Registration with regard to the levy of stamp duty on rectification deeds. In terms of the said circular, he submits that if there is a change in boundaries and the extent of property conveyed under the rectification deed, such rectification deed is liable for additional stamp duty as prescribed under Section 47B of the Stamp Act. On the other hand, if there is no increase in the total extent conveyed and no change in the boundaries, collection of additional stamp duty is not warranted.

4. Upon examining the above mentioned circular, in substance, such circular provides for the levy of additional stamp duty whenever the extent of property increases as a result of rectification, whether by way of a change in the boundaries or otherwise. In the case at hand, the rectification deed does not result in an increase in the extent of property conveyed thereby. Given the fact that stamp duty is levied on the basis of the value of property conveyed under the document, if the extent and, consequently, the value of the relevant property does not change as a result of such rectification, an increase in stamp duty may not be warranted.

5. For reasons set out above, the impugned refusal check slip cannot be sustained. Therefore, the impugned refusal check slip is quashed. Consequently, the petitioner is permitted to re-submit the rectification deed for registration. Such re-submission shall be done within a period of two (2) weeks from the date of receipt of a copy of this order. Upon such re-submission, the respondent is directed to re-consider the matter by taking into account the observations in this order and determine the appropriate stamp duty and registration fees. Upon such determination, the respondent is directed to complete the registration process after receiving such appropriate stamp duty and registration fees. The entire exercise shall be completed within a period of two (2) months from the date of re-submission of the relevant rectification deed.

6. Accordingly, W.P.(MD).No.13775 of 2021 is disposed of without any order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/LM

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Sub Registrar,
Sub Registrar Office, Thiruvaiyaru,
Thiruvaiyaru Taluk,
Thanjavur District.

+1 CC to M/s.SPL. GP (SR-29093[F] dated 15/09/2021)

W.P(MD)No.13775 of 2021
14.09.2021

PS(CO)
KB(22.09.2021) 3P 3C