IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.12451 of 2014

S.Rajendiran ... Petitioner

Vs.

1. The District Collector,
Thiruvallur District,
Thiruvallur.

2. The District Registrar,
The District Registrar Office,
Thiruvallur District.

3. The Sub Registrar,
Office of the District Registrar,
Manavalanagar,
Thiruvallur District. ... Respondents

Prayer:
Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records in pursuance of the impugned Letter 244/2013 dated 11.11.2013 passed by the third respondent and to quash the same and consequently to direct the third respondent to register the rectification deed bearing pending document No.113 of 2013 dated 12.04.2013 on the file of the third respondent as a regular document and release the same to the petitioner.

For Petitioner : M/s.Karan and Uday

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records in pursuance of the impugned Letter 244/2013 dated 11.11.2013 passed by the third respondent and to quash the same and consequently to direct the third respondent to register the rectification deed bearing pending document No.113 of 2013 dated 12.04.2013 on the file of the third respondent as a regular document and release the same to the petitioner.

2.The case of the petitioner is that the petitioner purchased a vacant site at Plot No.162, measuring an extent of 1978 sq.ft. In S.No.285/7 at Thirumalai Nagar, Adigathur Village, Thiruvallur Taluk on 09.11.1994. On 13.03.2013, to meet out the family expenses, the petitioner attempted to sell the property and at that time, he came to know that in the sale deed the survey number has been wrongly mentioned as S.No.285/1 instead of S.No.285/7. Hence, he approached the third respondent by way of rectification deed on 12.04.2013, however, the third respondent refused to register the same and issued the impugned order on the ground that the rectification deed has been presented after a lapse of nearly 19 years and there is vast difference in valuation and demanded extra stamp duty. Challenging the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner submitted that though the original document was registered in the year 1994 and the rectification deed was presented in the year 2013, the parties in the original document and the rectification deed is one and the same and the extent of the property is one and the same. There is error only in the survey number. Hence, there is no loss to the Government and no proceedings under Section 47 A of the Indian Stamp Act can be initiated. In support of his contentions, the learned counsel relied upon the decision of this Court reported in 2010 - 3 - L.W. 252 [P.Uthamaraj Vs. The District Registrar, Chennai South and others].

4.The learned Special Government Pleader appearing for the respondents submitted that admittedly the original sale deed was registered during the year 1994 and the rectification deed was presented for registration during the year 2013 after a lapse of nearly 19 years. The guideline value and market value of the property would have increased twice during the period and hence, the impugned order passed by the third respondent is perfectly in order and warrants no interference.

5.Heard the arguments advanced on either side and perused the materials available on record.

6.The facts in the present case is not in dispute. This Court perused the sale deed and the rectification deed. The parties in the sale deed and the rectification deed are one and the same and the extent is also one and the same. The petitioner has presented the rectification deed for registration only in respect of correction in the survey number.

7.It is useful to extract hereunder the relevant portion of the decision of this Court reported in 2010 - 3 - L.W. 252 [P.Uthamaraj Vs. The District Registrar, Chennai South and others];

> "15. At the risk of repetition, it is made clear that if by way of rectification deed, the extent is going to be increased, certainly for the difference in extent, the registering authority is entitled to charge the stamp duty under Schedule I. But, it is not open to the registering authority to reopen the original sale that took place in the year 2003 for the purpose of fresh assessment of value as on the date of rectification of typographical error and by imposing stamp duty on the rectification deed and to seek to recover the difference of stamp duty from the petitioner. Inasmuch as the registering authority at the time of presentation of document for registration in the year 2003 did not raise any objection under section 47-A of the Act, it is not open to the respondents to raise the dispute regarding valuation now."

8.Perusal of the decision cited supra makes it clear that if by way of rectification deed, the extent is going to be increased, certainly for the difference in extent, the registering authority is entitled to charge the stamp duty under Schedule I. But, it is not open to the registering authority to reopen the original sale that took place in the year 2003 for the purpose of fresh assessment of value as on the date of rectification of typographical error and by imposing stamp duty on the rectification deed and to seek to recover the difference of stamp duty and the decision squarely applies to the present case on hand. Hence, the order impugned in the writ petition is liable to be set aside.

9.Accordingly, the impugned order dated 11.11.2013 passed by the third respondent is set aside. The third respondent is directed to register the rectification deed presented by the petitioner and release the same upon receipt of admissible stamp duty and registration charges related to the rectification deed and without insisting upon the present market value or guideline value of the property (i.e., the third respondent is permitted to collect only the charges related to rectification deed).

10.The writ petition is disposed of with the above observations. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

pri

To

1. The District Collector,
   Thiruvallur District,
   Thiruvallur.

2. The District Registrar,
   The District Registrar Office,
   Thiruvallur District.

3. The Sub Registrar,
   Office of the District Registrar,
   Manavalanagar,
   Thiruvallur District.

+1cc to M/s.Karan and Uday, Advocate SR. No. 27447
+1cc to Government Pleader SR. No. 21749

W.P.No.12451 of 2014

SR (CO)
PR (06/05/2022)