IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.31746 of 2022 and
W.M.P.Nos.31191 & 31194 of 2022

B.Barackath ... Petitioner

Vs

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

2.The District Registrar,
Central Chennai,
268, Bharathi Salai,
Royapettah, Chennai – 600 014.

3.The Sub Registrar – Triplicane,
268, Bharathi Salai,
Royapettah, Chennai – 600 014.

4.M/s.Tata Capital Housing Finance Ltd.,
Rep. By its Director,
1st Floor, Centennial Square,
6A, Dr. Ambedkar Salai,
Kodambakkam, Chennai – 600 024. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned communication dated 14.11.2022 issued by the 3rd respondent and quash the same and consequently direct the respondent authorities not to demand any additional stamp duty or registration fee more and above already paid stamp duty of 7% and registration fee of 4% for registration of the sale deed dated 22nd August 2022 registered as Document No.1082 of 2022 in the office of the Sub Registrar, Triplicane.

For Petitioner : Mr.Thanka Sivan

For Respondents : Mr.R.P.Muruganraja
Government Advocate for R1 to R3

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned communication dated 14.11.2022 issued by the 3rd respondent and quash the same and consequently direct the respondent authorities not to demand any additional stamp duty or registration fee more and above already paid stamp duty of 7% and registration fee of 4% for registration of the sale deed dated 22nd August 2022 registered as Document No.1082 of 2022 in the office of the Sub Registrar, Triplicane.

2. The petitioner has presented a sale deed for registration where the value of the site was made as Rs.65,00,000/- and the value of the building was made as Rs.10,00,000/-, this according to the learned counsel for the petitioner, was wrongly mentioned insofar as the value of the site is concerned as that should be only Rs.35,00,000/- whereas the value of the

building should Rs.40,00,000/-. Therefore, subsequently a rectification deed has been presented where in Annexure 1-A the value of the site and building as Rs.35,00,000/- and Rs.40,00,000/- resubmitted, by thus the value of the building has been enhanced from Rs.10,00,000/- to Rs.40,00,000/- whereas the site value has been reduced from Rs.65,00,000/- to Rs.35,00,000/-. However the fact remains that, the total valuation combinedly both site as well as building is Rs.75,00,000/- alone that has not been changed.

3. When this rectification deed was presented, the only rectification sought for changing the value of the site as well as the building and since the same has been registered now both documents have been made pending and not been released to the petitioner by the registering authority viz., the 3rd respondent stating the reason that, insofar as the building is concerned, the original value was Rs.10,00,000/- now it has been enhanced to Rs.40,00,000/-, therefore for the remaining Rs.30,00,000/-, additional stamp duty to the extent of 7% and the registration charges of 4% have to be paid that is the order impugned passed by the 3rd respondent dated 14.11.2022 which is under challenge.

4. Heard Mr.S.Thanga Sivan, learned counsel appearing for the petitioner who would submit that, insofar as the value of the site is concerned, mistakenly it has been quoted as Rs.65,00,000/- instead of Rs.35,00,000/-. At the same time, insofar as the building, that was also mistakenly quoted as Rs.10,00,000/- instead of Rs.40,00,000/- based on this Annexure 1-A the original sale deed was registered, subsequently after noticing this defect, in order to rectify the defect, the rectification deed also has been presented for registration with Annexure 1-A where the value of the site has been valued as Rs.35,00,000/- instead of Rs.65,00,000/- and the building has been valued as Rs.40,00,000/- instead of 10,00,000/-.

5. This is merely a typographical error and any how this has to be rectified only by way of rectification deed that has also been presented for registration and both the deeds though have been rectified and registered, it has not been released by citing the reason that insofar as the remaining Rs.30,00,000/- that is the enhanced building value, additional stamp duty with registration fee have to be paid by the petitioner. This kind of demand now made through the impugned communication is totally unjustifiable because the total value has not been changed. Moreover, this mistake or

error committed in the deed along with Annexure 1-A, only in order to rectify the same the rectification deed has been presented which was accepted and registered. Having accepted and registered the rectification deed and once the registration of the rectification deed is given effect to, ultimately the figure made in Annexure 1-A as well as the assessment made in this regard with regard to the value of the site as well as the building would be Rs.35,00,000/- and Rs.40,00,000/- respectively. Therefore the total valuation is Rs.75,00,000/- for which entire stamp duty as well as the registration charge since has already been paid, there can be no further impediment for the 3rd respondent to release the documents. Therefore the present reason cited in the impugned communication is untenable, he contended.

6. Heard Mr.R.P.Muruganraja, learned Government Advocate appearing for the respondents 1 to 3 who would rely upon the counter affidavit filed by the 3rd respondent, where, *inter alia* he pointed out that, insofar as the undervaluation of the building i.e. instead of Rs.40,00,000/- to Rs.10,00,000/- such a valuation now has been made properly by making the rectification deed and if the said rectification deed is now registered, in

order to release the rectification document as well as the original sale deed, the remaining additional stamp duty as well as registration charges for the enhanced value of the building from Rs.10,00,000/- to Rs.40,00,000/- since has to be paid by the petitioner, which has not been paid by the petitioner, the document in question cannot be released, that is the stand taken by the 3rd respondent, the learned Government Advocate contended.

7. I have considered the said submissions made by the learned counsel for the parties and have perused the materials placed before this Court.

8. As has been rightly pointed out by the learned counsel for the petitioner, it is only a mistake committed by the petitioner at the time of presenting the original sale deed. However, by making the rectification deed for the value of the site as well as the building instead of Rs.65,00,000/- and Rs.10,00,000/- respectively, it was mentioned correctly Rs.35,00,000/- and Rs.40,00,000/- respectively. That is the reason why the very rectification deed has been prepared and submitted for registration which having been accepted and registered by the respondents i.e. the 3rd respondent where the value of the site has been mentioned as Rs.35,00,000/- and the value of the

building as Rs.40,00,000/-.

9. When that being so, while taking up the enhanced value of the building as Rs.40,00,000/-, the 3rd respondent conveniently omitted to taking up the reduced value of the site as Rs.35,00,000/- which is an error occurred in the original sale deed as well as the Annexure 1-A form which were sought to be, in fact, rectified through the rectification deed.

10. When that being so, now the present reason cited by the 3rd respondent for refusing to release the documents both original sale deed as well as the rectification deed, after having rectified the same, and kept it pending, is unjustifiable.

11. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

> That the impugned communication dated 14.11.2022 is set aside. As a sequel, there shall be a direction to the 3rd respondent to release both the documents viz., original sale deed as well as the rectification deed after ensuring that the

petitioner has paid the stamp duty as well as registration charges for the valuation i.e. Rs.35,00,000/- for the site and Rs.40,00,000/- for building, if that amount since has already been paid as claimed by the learned counsel appearing for the petitioner, this Court feels that there shall be no further impediment for releasing the said documents. The needful as indicated above shall be undertaken by the 3rd respondent within a period of two weeks from the date of receipt of a copy of this order.

12. With these directions, this Writ Petition is ordered accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

19.12.2022

Index : Yes/No

Speaking Order : Yes/No

Sgl

To

1.The Inspector General of Registration,
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R.SURESH KUMAR, J.

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