



W.P(MD)No.10299 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.07.2022**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.10299 of 2012

A.Mohammed Ashik

... Petitioner

Vs.

The Sub-Registrar,
Office of the Sub-Registrar,
Tallakulam,
Madurai,
Madurai District.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the proceedings of the respondent dated 29.06.2012 and quash the same as illegal in so far as requiring payment of deficit stamp duty of Rs.1,09,750/- is concerned and consequentially direct the respondent to release the sale deed presented by the petitioner registered in pending Document No.232/2011 within the period that may be stipulated by this Court.

For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

For Respondent : Mr.K.S.Selva Ganesan
Government Advocate



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ORDER

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The present writ petition has been filed challenging an order, dated 29.06.2012 passed by the respondent herein, wherein he demanded deficit stamp duty from the writ petitioner.

2. According to the learned counsel for the petitioner, one Natarajan is the original owner of the property, who has created a usufructuary mortgage in favour of one Chitra by way of registered deed on 04.07.2007. Due to certain dispute between the mortgagor and mortgagee, a civil suit came to be filed between them. The mortgagor and mortgagee arrived at a compromise, wherein they agreed to jointly alienate the property in favour of the writ petitioner. Accordingly, a sale deed was executed on 27.12.2011 in favour of the petitioner jointly by the original owner, namely, Natarajan and the usufructuary mortgagee, namely Chitra. In the sale deed, it has been specifically mentioned that the total sale consideration is Rs.12,00,000/-(Rupees Twelve Lakhs only). Out of the said Rs.12,00,000/-(Rupees Twelve Lakhs only), a sum of Rs.6,00,000/-(Rupees Six Lakhs only) is being paid to the mortgagee, namely, Chitra.



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3. The present impugned order has been passed on the ground that an additional stamp duty has to be paid, since Chitra is receiving a sum of Rs.6,00,000/-(Rupees Six Lakhs only) in the sale transaction. This order is under challenge in the present writ petition.

4. I have carefully considered the sale deed and the impugned order.

5. The total sale consideration under the sale deed is Rs.12,00,000/-(Rupees Twelve Lakhs only). It is not the case of the respondent that the property has been undervalued. The total sale consideration includes a sum of Rs.6,00,000/-(Rupees Six Lakhs only) to be paid to the mortgagee. Hence, any demand for stamp duty can only for the total sale consideration of Rs.12,00,000/-(Rupees Twelve Lakhs only) and there cannot be a separate demand of stamp duty for Rs.6,00,000/-(Rupees Six Lakhs only), which is received by one of the co-signatory of the sale deeds.



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6. Hence, I find that the impugned order is a result of non application of mind and the same is set aside. The respondent is directed to release the document and to delete the endorsement made in the document. In case, if any endorsement is reflected in the encumbrance certificate, the same shall also be deleted.

7. With the above said observations, this writ petition is allowed.

No costs.

04.07.2022

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Index : Yes / No
Internet : Yes / No

To

The Sub-Registrar,
Office of the Sub-Registrar,
Tallakulam,
Madurai,
Madurai District.



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R.VIJAYAKUMAR ,J.

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Order made in
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