BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.13390 of 2022

F.John Suresh
rep. by his power of attorney,
S/o.Francis John Bosco,
No.349, Holy Family Church Street,
Melaramanputhur,
Nagercoil-629 004. ... Petitioner

Vs.

1.The Inspector General of Registration,
100, Santhome High Road,
Mullima Nagar,
Mandaveli Pakkam,
Raja Annamalaipuram,
Chennai-600 028.

2.The District Registrar,
Near SLB Girls Government Higher Secondary School,
South Road,
Nagercoil-629 001.

3.The Joint Sub-Registrar-I,
Kanyakumari District,
Nagercoil. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to refund Rs.1,15,595/- collected from the petitioner towards the registration of the rectification deed dated 28.12.2021.

For Petitioner : Mr.C.T.Perumal

For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The petitioner purchased the petition mentioned land on 01.12.2021 and a sale deed was also duly registered. It was later noted that the four boundary description was erroneous. Therefore, a deed of rectification was presented on 28.12.2021. The petitioner was called upon to pay a sum of Rs.1,15,695/- towards stamp duty. Since the petitioner had to urgently leave the country, without demur, he paid a sum of Rs.1,15,695/-. The rectification deed was also duly registered. The petitioner later came to know that only a sum of Rs.100/- has to be remitted towards fee for registering a deed of rectification, if there is no change in the extent of the property conveyed thereunder. Since the

extent of property conveyed under the original deed as well as the rectification deed is one and the same, the petitioner was required to pay Rs.100/- towards fee. However, the respondents have collected a sum of Rs.1,15,695/- from the petitioner. Seeking refund of the same, the petitioner submitted a representation dated 19.05.2022. Since it did not elicit any response, the present writ petition came to be filed.

3. There can be no dispute that the petitioner is entitled to refund of the amount of Rs.1,15,595/-. Section 45 of the Indian Stamp Act, 1899 is the relevant provision. It reads as follows:-

45. Power to Revenue authority to refund penalty or excess duty in certain cases:-

(1) Where any penalty is paid under Section 35 or Section 40, the Chief Controlling Revenue-authority may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

(2) Where, in the opinion of the Chief Controlling Revenue-authority, stamp-duty in excess of that which is legally chargeable has been charged and paid under Section 35 or Section 40, such authority may, upon application in writing made within three months of the order charging the same, refund the excess.

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4. Since the entitlement of the petitioner is beyond dispute, the first respondent is directed to refund the sum of Rs.1,15,595/- to the writ petitioner forthwith and without any delay. The Writ Petition is allowed. No costs.

11.07.2022

Index : Yes / No
Internet : Yes/ No
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To

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