IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 31.10.2023
CORAM:
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.4817 of 2022
and
W.M.P.No.4930 of 2022

1. Daniel Philip
2. Mrs.Sumi Daniel ...Petitioners

Vs.

1.The Commissioner,
Income Tax Department Central
No.46, Mahatma Gandhi Road
Nungambakkam
Chennai – 600 034

2. The Assistant Commissioner of Income Tax
Office of the Assistant Commissioner of Income Tax
Central Circle IV (2)
No.46, Mahatma Gandhi Road
Nungambakkam
Chennai – 600 034.

3. M/s.E.V.P.Housing Chennai Private Limited
No.23, Thiyagaraja Road
Pondy Bazaar, T.Nagar, Chennai – 600 017

4. Mr.D.Bhaskaran

5. K.A.Thantony ...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to direct the second respondent to return the original Sale Deed dated 24.04.2006 registered as Document No.1562 of 2006 in the office of the Sub Registrar, Pammal.

For Petitioner : Mr.T.V.Sekar

For Respondents : Mr.Prabhu Mukunth Arunkumar
Standing Counsel for R1 and R2

R3 : No appearance

R4 : Tapal returned with an endorsement

ORDER

This Writ Petition is filed for issuance of a writ of mandamus, directing the 2nd respondent to return the original Sale Deed dated 24.04.2006 registered as Document No.1562 of 2006 in the Office of the Sub Registrar, Pammal.

2. The facts of the case in short are as follows:-

i) The grievance of the petitioners are that the petitioners and third respondent had entered into an Sale/Construction Agreement of a plot and first petitioner also paid the entire sale consideration at the time of registration of the plot and despite the same, the sale deed was retained by the 3rd respondent. As per the aforesaid Agreement entered into between the parties, until the completion of the construction, the Sale Deed will be retained by the 3rd respondent and after the completion of the construction, the Sale Deed would be returned to the petitioners. Though the Agreement was entered into between the parties in the year 2006 and the construction work commenced way back in the year 2006, however, till date the 3rd respondent had not completed the project.

ii) While so, the second respondent, Income Tax Department conducted an inspetion at the business premises of the third respondent/Developer and seized certain documents, inclusive of the sale deed of the petitioners. Hence, the present Writ Petition seeking for a direction to the 2nd respondent to return the original sale deed since the 3rd respondent/Developer has abandoned the building construction at the site.

3 The learned Standing Counsel for the respondents 1 and 2 would submit that the documents that were seized from the third respondent's business premises at the time of search are all relevant documents required for the purpose of initiation of appropriate proceedings against the third respondent, however, he referred to para No.3 of the counter affidavit filed by the respondent-Department, wherein, it is stated that the sale deed of the petitioners was returned to the third respondent on 30.05.2023.

4. However, the learned counsel for the petitioners would submit that the respondent-Department very well knows that the petitioners have filed Writ Petition seeking for a direction on them for return of documents, which, they seized at the place of business of the third respondent and when that being the position, the respondent-Department ought not to have returned the document to the 3rd respondent, instead, they ought to have produced the same before this Court.

5. This Court is not inclined to accept the said submissions of the learned counsel for the petitioner, since, in the present case, the issue is pertaining to return of document only, which was already returned by the respondents to the person from whom it was seized. However, taking into consideration of the above facts and circumstances of the case, coupled with the further fact that the petitioners have already paid the entire sale consideration, this Court can only observe that, it would be appropriate for the 3rd respondent to return the original documents as the entire sale consideration has already been paid by the petitioners, and this Court hopes that there would be any impediment for the 3rd respondent to return the document to the petitioners.

6. With the above observation, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

31.10.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
mps

To

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KRISHNAN RAMASAMY, J,

mps

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