IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.21824 of 2021
and
W.M.P.Nos.23008 & 23007 of 2021

R.Dhakshayani ... Petitioner

Vs.

1.The Tahsildar,
Office of the Tahsildar,
Nemili Taluk, Vellore District.

2.The District Registrar (Administration),
District Registrar Office,
Arakkonam, Vellore District.

3.M.Prakash ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 2nd respondent in Na.Ka.No.4656/A1/2018 dated 06.12.2018 quash the same further direct the 2nd respondent herein to Register Rectification Deed without any fees payable with the Survey No.140/3 with respect to residential Plot Numbers 17, 18, 19, 20, 40, 41, 42, 45, 46 of the Nedumpuli Village, Nemili Taluk (formerly Arakkonam Taluk) Vellore District.

For Petitioner : Mr.K.Venkataswamy Babu

For R1 & R2 : Mr.D.Ravichander
Special Government Pleader

For R3 : Mr.V.Balaji

O R D E R

The impugned letter dated 06.12.2018 states that as per Section 80 of the Registration Act, the rectification deed presented by the petitioner is chargeable. Thus, the petitioner was asked to pay the requisite stamp duty for the purpose of registering the rectification deed dated 14.07.2009 presented by him.

2. The contention of the petitioner is that the rectification deed is to be registered without collecting any stamp duty. In respect of the said contention it is relevant to consider Section 80-A of the Registration Act, which stipulates *"(l) Notwithstanding anything contained in section 80, if after the registration of a document, it is found that the fee payable under this Act in relation to that document has not been paid or has been insufficiently paid, such fee or the deficit, as the case may be, may, on the certificate of the registering officer, be recovered from the person who presented such*

document for registration under section 32, as an arrears of land revenue:"

3. Even Section 47-B of the Indian Stamp Act, 1899 stipulates, *"Where an instrument purports to rectify any error in the description of property as set out in any previous instrument falling within the purview of section 47-A, then, the amount of duty chargeable on such instrument of rectification shall be the amount chargeable on it under Schedule-I less the amount of duty, if any, already paid in respect of such previous instrument."*

4. In view of the above provisions, the petitioner is bound to pay the stamp duty to be determined by the Registering Authority in accordance with the Statutes. Thus, the contention of the petitioner that it is not necessary to pay stamp duty for registration of rectification deed is unacceptable.

5. Thus, the petitioner is at liberty to pay the stamp duty to be determined by the competent authority and present the document for registration. Thereafter, the respondents shall consider the same for registration by following the procedures as contemplated.

6. With these observations, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

26.07.2023

Jeni
Index : Yes
Neutral Citation : Yes
Speaking order

To

1.The Tahsildar,
Office of the Tahsildar,
Nemili Taluk, Vellore District.

2.The District Registrar (Administration),
District Registrar Office,
Arakkonam, Vellore District.

S.M.SUBRAMANIAM, J.

Jeni

W.P.No.21824 of 2021

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