



W.P.No.22360 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.22360 of 2017

Kousalya R.Krishnan

...

Petitioner

/vs/

1.The District Registrar,
South Chennai
Saidapet, Chennai 600 015.

2.The Sub Registrar
Kunrathur, Chennai.

...

Respondents

PRAYER : The writ petition has been filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records in the impugned order dated 2.5.2017 passed by the 2nd respondent, quash the same as illegal and further direct the 2nd respondent to return the Rectification Deed dated 22.04.2016 bearing Doc.No.P188/2016 on the file of the 2nd respondent without levying any stamp duty and registration fees.

For Petitioner

... No appearance

For Respondent
Nos.1 and 2

... Mr.Yogesh Kannadasan
Spl.Government Pleader



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ORDER

WEB COPY The writ petition has been filed to issue a writ of Certiorarified Mandamus, calling for the records in the impugned order dated 2.5.2017 passed by the 2nd respondent, quash the same as illegal and further direct the 2nd respondent to return the Rectification Deed dated 22.04.2016 bearing Doc.No.P188/2016 on the file of the 2nd respondent without levying any stamp duty and registration fees.

2.Originally, the partition deed between the family members of the petitioner was registered on 16.11.2011 vide document No.14313/2011, in which, there was found some mistakes. Subsequently, they presented a rectification deed dated 22.04.2016 before the second respondent but it was not registered and the same was kept pending. Therefore, the petitioner approached the first respondent/the District Registrar and the District Registrar also gave a direction to the second respondent that there is no substance to withheld the document, hence, it has to be sent before the District Revenue Officer (Stamp). Thereafter, the second respondent passed the impugned order dated 02.05.2017 directed the petitioner to pay the



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additional stamp duty of Rs.92,46,897/-. Aggrieved the same, the petitioner has filed the present writ petition.

3.Further, it reveals that it is only a rectification of the typographical mistakes occurred in the original partition deed dated 16.11.2011 that it was mentioned undivided property instead of divided property and by mistakenly, the boundaries and also resurvey number have not been given and therefore, rectification deed for mentioning the boundaries for A, B and C schedule properties, thereby, no conveyance of further right and title of any of the party and it is only rectifying the mistakes committed in the original partition deed. Therefore, it would not attract any stamp duty or additional stamp duty. In this regard, when the petitioner approached the first respondent/the District Registrar, the District Registrar also gave certain directions to the second respondent that there is no substance to withheld the document, hence, it has to be sent before the District Revenue Officer (Stamp) and the second respondent did not convince the same and passed the impugned order which is liable to be quashed.



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4.The learned Special Government Pleader appearing for the respondents conceded that it is a mistake and it is not conveyance for transfer of any right or title of any of the property from one person to another person and it would not attract any stamp duty or additional stamp duty.

5.I have considered the matter in the light of the submissions made by the learned counsel appearing for the Special Government Pleader appearing for the respondents and perused the materials available on record.

6.On perusal of the records, it reveals that admittedly, the partition deed executed between the petitioner and their brothers was registered on 16.11.2011. Subsequently, since some mistakes were found in the partition deed, rectification deed executed between them and it was presented before the second respondent for rectifying the mistakes committed in the original partition deed dated 16.11.2011. Further, a perusal of the rectification deed



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and registered partition deed, it is seen that as pointed out by the learned counsel for the petitioner, it is only a typographical error and mere rectifying the mistakes which will not amount to transfer of any right or title from one person to another person. Under these circumstances, the rectification deed does not require any stamp duty or additional stamp duty. Therefore, the impugned order dated 02.05.2017 passed by the second respondent is without any application of mind and therefore, it is liable to be quashed.

In the result, the impugned order dated 02.05.2017 passed by the second respondent is hereby quashed and the writ petition is allowed with a direction to the second respondent to complete the formalities and after completing the formalities, handed over the rectification deed dated 22.04.2016 to the petitioner within a period of one month without insisting any other fee. No costs.

Index : Yes/No
Internet : Yes/No
sms

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To
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South Chennai
Saidapet, Chennai 600 015.
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Kunrathur, Chennai.



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P.VELMURUGAN,J.

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