IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.12.2023

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.33218 of 2017 and
W.M.P.Nos.6688 of 2019

C.Venni ... Petitioner

Versus

1. The Inspector General of Registration
   Santhome, Chennai – 600 005.

2. The Sub Registrar,
   Registration Office,
   Villivakkam, Chennai – 49. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent in Na.Ka.No.167/SR/2015 dated 28.09.2015 with document No.1517/2012 and quash the same and thereby direct the second respondent to remove the endorsement made in the E.C. with respect to the property bearing Plot No.10 situated at No.2/1 High Court Colony 1st Street, Villivakkam, Chennai 600 049, comprising survey No.238, Old Patta No.239, S.R.O. Villivakkam.

For Petitioner : Mrs.Zeenath Begam for
M/s.M.Liagat Ali

For Respondents : Mr.V.Veluchamy
Additional Government Pleader

******

ORDER

This writ petition has been filed to quash the impugned order, wherein the petitioner was directed to pay the deficit stamp duty for the property purchased by her vide sale agreement, which was registered as Doc.No.1517/2012 and consequently to remove the endorsement made in the Encumbrance Certificate.

2 Learned counsel appearing for the writ petitioner would submit that the petitioner purchased vacant land bearing Plot No.10 at No.2/1 High Court Colony 1st Street, Villivakkam, Chennai, and the sale deed was also registered vide Doc.No.1517/2012 and paid the stamp duty. But, the respondents insisting for payment of deficit stamp duty citing the earlier sale agreement, which was made only for the purpose of availing loan and the same was not even acted upon and the respondents also made the entries in the Encumbrance Certificate.

3 Learned Additional Government Pleader appearing for the respondents would submit that earlier the same parties have registered the sale deed vide Doc.No.717/2012 for the same property valuing at Rs.1,10,000/- and subsequently registered sale agreement for the same property valuing at Rs.18,81,000/-. The revenue authority, on enquiry, found the same and insisted the petitioner to pay the deficit stamp duty. Further the petitioner has appeal remedy under Section 47A(5) before the Chief Controlling Revenue Authority and hence the petitioner cannot invoke writ jurisdiction and the writ petition is liable to be dismissed.

4 Heard the learned counsel for the petitioner and the learned Additional Government Pleader for respondents.

5 The grievance of the petitioner is that even though the writ petitioner paid all the stamp duty and registration fee for the property purchased by her, the respondents insisted her to pay the deficit stamp duty. In the counter filed by the respondents, apart from attacking the case of the petitioner on merits, at paragraph no.6, it is stated that as against the order impugned in this writ petition, the petitioner has appeal remedy under Section 47A(5) of the Indian Stamp Act, 1899, before the Chief Controlling Revenue Authority.

6 Therefore when the appeal remedy is available for the writ petitioner, she cannot invoke the writ jurisdiction and hence the writ petition is dismissed. However the petitioner is at liberty to workout her remedy in the manner known to law. The time spent for this writ petition shall be exempted for calculation of limitation. Consequently connected miscellaneous petition is closed. No costs.

06.12.2023

Index: Yes/No
cgi

To

1. The Inspector General of Registration
   Santhome, Chennai – 600 005.

2. The Sub Registrar,
   Registration Office,
   Villivakkam, Chennai – 49.

P.VELMURUGAN, J.,

cgi

W.P.No.33218 of 2017 and
W.M.P.Nos.6688 of 2019

06.12.2023