IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01-09-2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.33819 of 2017

V.S.Muthupandian ... Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.

2.The Sub Registrar,
Anna Nagar, J.J.Complex,
Thirumangalam,
Chennai-600 040. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings dated 06.11.2017 in C.No.2/2017 passed by the second respondent and quash the same arbitrary, illegal, against law and consequently direct the second respondent to return the excess stamp duty of 2% collected over and above the eligible stamp duty of

5% to the petitioner.

For Petitioner : Mr.K.N.Nataraaj

For Respondents : Mr.T.Arunkumar,
Additional Government Pleader.

ORDER

The impugned proceedings dated 06.11.2017 passed by the second respondent-Sub Registrar rejecting the request of the writ petitioner to refund the stamp duty already paid for registration of Sale Certificate under the Registration Act, 1908, is under challenge in the present writ petition.

2. The petitioner presented the Sale Certificate for registration under Section 17 of the Registration Act, 1908. Since the petitioner presented the document, the Registering Authority recovered the stamp duty and accordingly registered the Sale Certificate and released the same in favour of the writ petitioner.

3. The petitioner filed a petition seeking refund of the stamp duty on the ground that the Sale Certificate, which is to be registered without payment of stamp duty. A representation stating that the claim of stamp duty imposed for registration of Sale Certificate is improper, including the registration charges.

4. The order impugned reveals that the Registering Authority recovered the stamp duty as applicable for registration in respect of the document presented under Section 17 of the Registration Act, 1908. In other words, the stamp duty payable for registration in respect of all other documents are recovered for registering the Sale Certificate presented by the petitioner for registration.

5. The Sale Certificate presented for registration under Section 17 of the Registration Act, 1908, such presentation is to be treated on par with other documents presented under Section 17 of the Registration Act, 1908. Thus the procedures as contemplated under Section 17 of the Act, are to be followed for registering the said Certificate. However, the Sale

Certificate communicated by the Authorised Officer/Revenue Officer under Section 89 (4) of the Registration Act, 1908 by following the procedures, then entries in Book No.I as contemplated under Section 89(4) of the Act, is to be made. Thus the procedures as contemplated under Section 89(4) of the Act, cannot be compared with the registration under Section 17 of the Registration Act, 1908. If the Sale Certificate is presented by any person under Section 17 of the Act. In such circumstances, the stamp duty is to be recovered.

6. In the present case, it is not in dispute that the petitioner had presented the document for registration under Section 17 of the Registration Act, 1908 and more-so, the Sale Certificate is not compulsorily registerable under the Registration Act, 1908.

7. Once the petitioner has exercised his option to register the Sale Certificate under Section 17 of the Registration Act, 1908 and such presentation must undergo the process contemplated under Section 17 of the Registration Act, 1908, for registration of document.

8. In the present case, the process of registration had been undertaken by the Registering Authority by recovering the stamp duty as contemplated under the Indian Stamp Act and thereafter the document registered was released in favour of the writ petitioner.

9. It is not in dispute that in the present writ petition, the Sale Certificate was not communicated by the Authorised Officer to the Registering Authority under the procedures as contemplated under Section 89(4) of the Registration Act, 1908. Thus the petitioner is not entitled to seek refund in respect of the stamp duty recovered by the Registering Authority.

10. The learned Additional Government Pleader appearing on behalf of the respondents brought to the notice of this Court that there is no procedure under the Registration Act, 1908 for refund of stamp duty.

11. May that as it be. In any case, the registration of a document under Section 17 of the Registration Act, 1908, was done properly at the choice of the petitioner and admittedly the procedures

contemplated under Section 89 (4) had not been followed. Thus, the petitioner is not entitled for the relief as such sought for in the present writ petition.

12. Accordingly, the present writ petition stands dismissed. However, there shall be no order as to costs.

01-09-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.

2.The Sub Registrar,
Anna Nagar, J.J.Complex,
Thirumangalam,
Chennai-600 040.

S.M.SUBRAMANIAM, J.

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