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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.11.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)Nos.13903 & 13912 of 2021
W.P.(MD)No.13903 of 2021

Maheswari ... Petitioner

Vs

1.The Inspector General of Registration,
100, Santhome High Road,
Mullima Nagar,
Mandavelipakkam,
Raja Annamalai Puram,
Chennai - 600028.

2.The Special Deputy Collector
(Registration),
District Collector Complex,
Virudhunagar.

3.The Sub Registrar
Sub Registrar Office,
Kunoor Registration Office,
Kunoor, Virudhunagar District. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 3rd respondent to release the petitioner's Registered sale deed in Doc.No.987 of 2020 dated 05.12.2019 and to refund the Additional Stamp Duty of Rs.6,83,300/- paid by the petitioner as per the demand of the 2nd and 3rd respondents within a time stipulated by this Court.

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For Petitioner : Mr.P.M.Vishnuvarthanan

For Respondents : Mr.A.K.Manikkam,
Special Government Pleader

W.P.(MD)No.13912 of 2021

Kaleeswari ... Petitioner

Vs

1.The Inspector General of Registration,
100, Santhome High Road,
Mullima Nagar,
Mandavelipakkam,
Raja Annamalai Puram,
Chennai - 600028.

2.The Special Deputy Collector
(Registration),
District Collector Complex,
Virudhunagar.

3.The Sub Registrar
Sub Registrar Office,
Kunoor Registration Office,
Kunoor, Virudhunagar District. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 3rd respondent to release the petitioner's Registered sale deed in Doc.No.2236 of 2020 dated 14.10.2020 and to refund the Additional Stamp Duty of Rs.7,13,300/- paid by the petitioner as per the demand of the 2nd and 3rd respondents within a time stipulated by this Court.

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For Petitioner : Mr.P.M.Vishnuvarthanan

For Respondents : Mr.A.K.Manikkam,
Special Government Pleader

COMMON ORDER

The issue involved in both these writ petitions are common and hence, they are taken up together, heard and disposed of through this common order.

2. The petitioners have filed these Writ Petitions seeking for the issue of writ of mandamus directing the third respondent to release the sale deeds in pending Document Nos.987 and 2236 of 2020 and to refund the additional stamp duty paid by the petitioners.

3. The case of the petitioners is that they were declared as successful bidders in the auction conducted by the Bank pursuant to the initiation of the SARFEASI proceedings. The sale was confirmed and the Sale Certificates were also issued in favour of the petitioners. When the petitioners presented the sale certificates before the third respondent, the third respondent insisted that the stamp duty must be paid based on the market value of the property and accordingly, the documents were kept /

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retained as pending documents. The petitioners were also directed to pay the additional stamp duty which was also paid by the petitioners, pending Writ Petitions.

4. The learned counsel appearing for the petitioners submitted that during the pendency of these Writ Petitions, the petitioners were in urgent need of the documents and therefore, the petitioners had paid the entire stamp duty and the registration charges and the sale deeds were also registered and released in favour of the petitioners.

5. The learned Special Government Pleader appearing on behalf of the respondents submitted that by virtue of the Full Bench Judgment of this Court in the case of ***Dr.R.Thiagarajan Vs. the Inspector General of Registration, Santhome, Chennai – 4 and two others*** reported in ***[2019 (4) CTC 839],*** the sale certificate is compulsorily registrable and that the petitioners have to pay the entire stamp duty and the registration charges. Therefore, the learned Special Government Pleader submitted that nothing survives in these Writ Petitions, since the stamp duty has already been paid and the documents have already been registered and released to the petitioners.

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6. In the considered view of this Court, the Full Bench Judgment that was referred by the learned Special Government Pleader did not take any consideration the Judgment of the Hon'ble Apex Court in the case of ***Esjaypee Impex Private Limited Vs. Assistant General Manager and Authorised Officer, Canara Bank*** reported in ***2021 (2) CTC 493***. This was taken into consideration by the learned Single Bench of this Court in the case of ***Bell Tower Enterprises LLP Vs. the State of Tamil Nadu*** reported in ***2022 (5) CTC 454*** and it was categorically held that the sale certificate does not require any compulsorily registration and that it is enough, if the same is recorded under Section 89 of the Registration Act, 1908 in Book No.1 which does not attract any stamp duty. This Judgment was subsequently followed by another learned Single Judge of this Court in the case of ***N.C.Suresh Kumar and Others Vs. the Inspector General of Registration and Others*** reported in (***2023) 5 MLJ 176***.

7. In view of the above, the sale certificates that were issued in favour of the petitioners are not compulsorily registrable documents and as consequence, there is no question of payment of stamp duty and it is enough, if the entries are made in Book No.1 under Section 89 of the Registration Act, 1908. Therefore, the petitioners will be entitled for the refund of the stamp duty that was paid by the petitioners.

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8. In view of the above, there shall be a direction to the petitioners to make a representation to the third respondent, viz., the Sub Registrar, Kunoor Registration Office, Kunoor, Virudhunagar District, seeking for the refund of the stamp duty that was paid by the petitioners. The Sub Registrar on receipt of the representation is directed to deal with the same in line with the Judgments of this Court in the case of ***Bell Tower Enterprises LLP Vs. the State of Tamil Nadu*** reported in ***2022 (5) CTC 454*** and in the case of ***N.C.Suresh Kumar and Others Vs. the Inspector General of Registration and Others*** reported in (***2023) 5 MLJ 176,*** wherein, it was held that the sale certificate is not a compulsorily registrable document and a decision shall be taken within a period of four (4) weeks from the date of receipt of the representation from the petitioner.

9. Both these Writ Petitions are disposed of in the above terms. No costs.

06.11.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
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To

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2.The Special Deputy Collector
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Sub Registrar Office,
Kunoor Registration Office,
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N.ANAND VENKATESH, J.

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