IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE **N. SATHISH KUMAR**

W.P. No.8954 of 2024

K.Selvakumar .. Petitioner

Vs

1.District Registrar
Chennai North
Chennai

2.Sub Registrar, Ambattur
Ambattur ..Respondents

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PRAYER : Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the 2nd respondent to release the sale deed dated 11.01.2024 registered as document No.352/2024 in S.R.O. Ambattur to the petitioner.

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For Petitioner : Ms.Jessy Monica

For Respondents : Mr.Yogesh Kannadasan
Spl. GP for R1 and R2

ORDER

This writ petition has been filed for a direction to the second respondent to release the document registered as Document No.352 of 2024 on the file of SRO, Ambattur.

2. The case of the writ petitioner is that he has entered into an agreement on 31.07.2017 for a sale consideration of Rs.45.00 Lakhs and paid an advance of Rs.25.00 Lakhs. As the vendor refused to execute a sale deed, the petitioner has filed a suit in O.S. No.143 of 2019 and the same was decreed on 07.12.2020. As the judgment debtor failed to execute the sale deed, the decree was executed by the court in execution proceedings. Having registered the document, the respondents have not released the document.

3. The learned Special Government Pleader appearing for the respondents would submit that no order refusing to release the document is produced. However, according to him, the document has been withheld for not paying the fee on the market value on the date of presentation of the document.

4. At the outset, this court is of the view that once a document is registered and there was no under valuation and the document has not been referred for determining the market value under Section 47-A of Indian Stamp Act after registering the document, the Registering Authority has no power to retain the document.

5. With regard to payment of excess stamp duty and fees, it is relevant to note that the Hon'ble Apex Court in ***Residents Welfare Association, Noida v. State of Uttar Pradesh and Ors*** reported in ***2009 (14) SCC 716***, has held as follows:

> *"27. Having decided the aforesaid questions raised in this case, we now proceed to deal with the question as to the date of determination of the consideration mentioned in the document. The respondents contended that the consideration mentioned should be the market value of the property on the date of execution of the deed and not on the date when the agreement to sell the land was executed. The appellants on the contrary argued that the relevant date in order to calculate the consideration would be the market value on the date when the agreement to transfer the land was entered and registered. We have heard the argument of the parties and referred to various cases dealing with this matter. In this regard, we would liketo observe that there cannot be a straight-jacket*

formula devised for determining the same. It would depend on the various facts and circumstances of a particular case. In situations where the delay is caused on the part of a party intentionally while executing a deed after entering into an agreement of sale or lease as the case may be, the market value should be determined on the date when the deed is executed and not when an agreement to sale the property or lease the property had been registered. But in cases where a person is not at fault and the delay is caused due to the lessor as in this case, the market value should be determined on the date when the agreement to lease the property was entered. The lessee or the sub lessee should not suffer due to the inability of the lessor in handing over transfer memorandums as is required under the lease. For this, a reference can be made to the case of S.P.Padmavati v. State of Tamil Nadu and Ors. MANU/TN/0042/1997: AIR 1997 Mad 296, which is similar to the present case and to which we are in respectful agreement where the property could not be registered due to no fault of the transferee and where the consideration was frozen earlier, as in the current case. The Madras High Court held that the relevant date for calculation of market value and the stamp duty is the date on which the consideration was frozen."

6. By following the aforesaid judgment, this court in ***CMA. Nos.168 &***

169 of 2016 dated 22.08.2017 has held as follows:

> *"23. For the forgoing reasons I find that the proceedings under Section 47-A of the Stamp Act are vitiated due to non-compliance of the mandatory requirements of the Rules as well as the material date for valuation. It is not seen from any of the orders of the authorities that the valuation reflected in the sale deeds can be said to be a willful undervaluation on the date of the agreements, namely 06.05.1997 and 08.05.1997. Therefore, the appeals are allowed and the orders passed by the authorities are set aside."*

7. Considering the above question of law, the respondents cannot retain the document and hence there is a direction to the second respondent to release the document of the petitioner, registered as Document No.352/2024 on the file of S.R.O. Ambattur, within a period of two weeks from the date of receipt of a copy of this order.

8. With the above direction, the writ petition is disposed of. No costs. Consequently, the connected writ miscellaneous petition is closed.

03.04.2024

Index : Yes / No
Speaking/non speaking order
Neutral Citation : Yes/No
Asr

To

1.District Registrar
Chennai North
Chennai

2.Sub Registrar, Ambattur
Ambattur

3.The Government Pleader
High Court, Madras

N. SATHISH KUMAR, J.

Asr

W.P. No.8954 of 2024

Dated : 03.04.2024