IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.11579 of 2020
and
W.M.P.No.14181 of 2020

Mrs.S.Stella ...Petitioner

-Vs-

1.The Sub-Registrar,
Velachery S.R.O.,
Velachery,
Chennai – 600 042.

2.Mr.M.V.Venkatachalam

3.Mr.V.Rajkumar ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus, calling for the records of the first respondent vide impugned show cause notice Doc.No.6902 of 2019 dated 17.07.2020 and as a consequential relief by declaring the show cause notice dated 17.07.2020 as null and void and quash the same and pass such further orders.

For Petitioner : Mr.T.Ramachandran

For R1	:	Mr.P.Anandakumar Government Advocate
For R2 & R3	:	Mr.P.V.Ravi Kumar

ORDER

This writ petition is filed for issuance of a Certiorarified Mandamus, calling for the records of the first respondent vide impugned show cause notice Doc.No.6902 of 2019 dated 17.07.2020 and as a consequential relief by declaring the show cause notice dated 17.07.2020 as null and void.

2. The facts of the case in a nutshell:-

2.1 The petitioner purchased a piece of property measuring an extent of 2223 Sq.ft. comprised in Survey No.179 and 179 Part, Old Patta No.195 as per Patta Survey No.453/9, New Patta No.591, bearing Door No.1/67, 2nd Cross Eswaran Kovil Street, situated at Madipakkam Village, Sholinganallur Taluk, Kancheepuram District, Velachery Sub- Registration District, South Chennai Registration District, from one M.Venkatachalam S/o.Muthuvel Pillai and the same was registered as Doc.No.6902 of 2019 in the office of S.R.O. Velachery.

2.2 Prior to purchase of the property, the petitioner was a tenant just opposite to Mr.Venkatachalam building of premises at No.1/67, 2nd Cross, Easwaran Koil Street, Madipakkam. During the course of time, her husband, Mr.Sridhar had an opportunity to discuss about the property of sale of schedule property. The property was mortgaged with the State Bank India, Eldams Road, Teynampet, Chennai. The original document was given as collateral security to the tune of Rs. 1,06,00,000/-. Hence a talk of settlement was reached among Venkatachalam and my husband with the State Bank of India, Asset Recovery Management Branch, Teynampet, Chennai -18. Upon compromise the bank officer agreed to the tune of Rs.80,00,000/-. The petitioner paid an amount of Rs.80,00,000/- in the loan account of M/s. Sridevi Industries Rep. by Mr.V.Rajkumar who is the proprietor. Mr.Rajkumar is son of Venkatachalam. The above amount of Rs.80,00,000/- was paid on 31.10.2019 by way of R.T.G.S. Hence on the date of payment, the original documents were released in his favour.

2.3 The balance amount of Rs. 15,00,000/- was paid to the tenants who have occupied the building and the petitioner has obtained a receipt for Rs.15,00,000/-. On the date of payment itself, the petitioner took possession of the property. On 06.11.2019 Mr.Venkatachalam executed a Sale Deed in favour of the petitioner and the same was registered as Doc.No.6902/2019 registered in the office of S.R.O. Velachery. The extent of schedule property executed in favour of petitioner is 2223 sq.ft. with building along with E. B. Service connection as well as water service connection. On 05.11.2019, the petitioner paid a sum of Rs.1,97,990/- towards Stamp Duty and the first respondent issued a receipt as Receipt No.8755 of 2019 which shows Pending Document No.235 of 2019. And thereafter on 29.11.2019 a sum of Rs.96,000/- was paid through online and the same was received by the first respondent office. Prior to receipt of the above document No.6902 of 2019 in Page 2 of the Sale Deed there is an endorsement that deficit Stamp Duty paid on 18.11.2019 and after the receipt the document was released on 02.12.2019. The pending document No.235 of 2019 was regularized and allotted as Doc.No.6902 of 2019.

2.4 The petitioner mentioned in her letter dated 15.02.2020 stated that she has settled a sum of Rs.80,00,000/- and paid the same in the loan account of M/s.Sri Devi Industries, represented by Mr.Rajkumar. Only upon payment by the petitioner to the bank on 31.10.2019 by way of RTGS the original document released in favour of the petitioner vendor. Additionally, the petitioner has paid Rs.15,00,000/- to them to discharge the bank loan account and has the original document in their hand. The petitioner have stated how the transaction took place between the petitioner and her vendor. Protest Letter given by the petitioner herein on 15.02.2020. After submission of protest letter the first respondent has not taken any steps forced the petitioner to approach this Court in W.P.No.8022 of 2020 seeking the relief of directing the respondent not to entertain any kind of application, such as Sale Deed, General Power of Attorney or any other deed in the form of conveyance in favour of third parties pertaining to Survey No.179, Plot No.4, 4A, and 5 Madipakkam Village, Puzhuthivakkam, Eswaran Kovil Street, Madipakkam, Chennai - 600 091.

2.5 The order copy was sent to the first respondent on 10.07.2020 and the petitioner also sent another objection by way of protest letter as per the Court direction. After the receipt of Court Order and Protest Letter the first respondent hurriedly and with connivance with the previous vendor, namely C.Jayaraman, M.V.Venkatachalam and V.Rajkumar. To divert the attention of the petitioner, the first respondent sent the impugned Show Cause notice to the petitioner as a trump card. As the honest public servant, the first respondent herein even on the date of registration of the sale deed dated 06.11.2019 Document No.6902 of 2019 registered in the office of S.R.O. not made any objection. The petitioner has received the impugned Show Cause

Notice cum Letter dated 17.07.2020 directing the petitioner to pay a sum of Rs.3,19,200/- towards Stamp Duty and Rs.1,82,400/- towards registration totaling amount to Rs.5,01,600/- within two weeks failing which the first respondent is going to take action under 64 of Registration Act. On behalf of the petitioner, his counsel sent a representation to the first respondent on 07.08.2020. The first respondent wrongly understood the contents of the letter and sent the impugned Show Cause Notice connecting with the Sale Deed Document No.6902 of 2019. When the petitioner paid all necessary stamp duty as per the Guideline Value on 06.11.2019 and subsequently 29.11.2019, and where is the question of suppression of facts whether the petitioner caused loss to the Government exchequer. It is a wrong precedent set by the first respondent. The petitioner is not liable to pay any amount as per the first respondent show cause notice. Therefore, the present writ petition is filed.

3. Learned counsel for the petitioner submitted that he has paid the requisite stamp duty as per the rules of Tamil Nadu Registration Act. Learned counsel also drew the attention of this Court to the amounts paid by the petitioner, which are as follows:

Date	Amounts paid by the petitioner towards Stamp Duty
05.11.2019	Rs.1,98,445/-
29.11.2019	Rs.60,382/-
02.12.2019	Rs.96,000/-
Total	**Rs.3,54,827/-**

4. A counter affidavit was filed on behalf of respondents 1 and 2 dated 13.10.2022 and the relevant portion is extracted hereunder for better appreciation and understanding:

> ***"5.*** *With regard to Paras 6 to 11 of the affidavit, it is submitted that a Petition dated 15.2.2020 was submitted by the Petitioner requesting this respondent not to entertain any document executed by . Jayaraman, M.V.Venkatachalam and V Rajkumar As this respondent has no authority to refuse registration, this respondent has lodged the petition dated 15.2.2020 of the petitioner. Hence the petitioner has filed Writ Petition in W.P.No.8022 of 2020 for issue a Writ of Mandamus directing this respondent to consider the representation of the petitioner dated 15.02.2020 and consequently direct this respondent not to entertain any kind of application such as Sale deed, General Power of Attorney or any other form of conveyance comprised in survey No. 179, Plot No. 4,4A and 5 of Madipakkam village. This Hon'ble Court by its order dated 06.07.2020 has disposed the Writ Petition by ordering as follows:*
>
> *"The relief as sought for by the petitioner cannot be*

> *granted by this Court, since a writ of mandamus cannot be issued restraining an authority from performing a statutory duty. At the best, the petitioner can only submit a protest petition along with all supporting documents and pay the necessary fees and the 3rd respondent can consider the same before entertaining any document for registration from the private respondents with regard to the subject property. Except giving this liberty, no further directions can be issued by this Court."*

The petitioner has again sent a petition dated 11.7.2020 requesting not to entertain any kind of document pertaining to Survey No.453/98, Madipakkam. When the petition was examined, it was noticed that the petitioner has paid Rs.80,00,000/- to discharge the loan availed on the said property by Mis. Sridevi Industries rep by V. Rajkumar who is the son of 2nd respondent and also paid Rs. 15,00,000/- to the tenants for vacating the said property on behalf of M.V. Venkatachalam. So, it was clear that the petitioner has paid Rs,95,00,000/- to the Mortgagee and Jenants towards purchase of property but mentioned the consideration as Rs. 49,40,000/-only. According to Section 27 of the Indian Stamp Act. 1809 the consideration affecting the chargeability of any instrument with duty, shall be fully and truly set forth therein. Further omission to comply with the provision of Section 27 is punishable with Five Thousand Rupees as per Section 64 and the deficit stamp duty under 64-A of the Act. Hence this respondent has issued a notice in No.6902/2019 dated 17.

7.2020 to show cause why deficit stamp duty of Rs.3,19,200/- and deficit Registration fee shall not be levied in respect of Document No. 6902/2019. At the time of registration, this respondent has no record to suspect the petitioner has suppressed the payment of higher consideration. This respondent came to know of such suppression of payment of higher consideration only from the petition of the petitioner. When higher amount of consideration has been paid for purchase of the property than the guideline value, stamp duty is payable on such higher amount of consideration and not on the guideline value which is lesser."

5. Learned Government Advocate appearing for the first respondent has not denied the above said payment. But however, he submitted that the sale consideration, which was shown by the petitioner only a sum of Rs.49,40,000/- but on enquiry, it was found that the sale consideration was a sum of Rs.95,00,000/-. So he has to pay the difference in stamp duty.

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6. Heard both sides and perused the materials available on record.

7. Taking into consideration the above factual matrix of the case, the petitioner is directed to give his objection to the show cause notice dated 17.07.2020 within a period of two weeks from the date of receipt of a copy of the order and on receipt of the objection, the first

respondent / Sub-Registrar, Velachery S.R.O, Velachery, Chennai – 600 042, shall consider it on merits and pass appropriate orders within a period of six weeks thereof.

In the result, the **writ petition stands disposed of with the above observation and direction**. No costs. Consequently, connected miscellaneous petition is closed.

28.06.2024

cda
Index : Yes/No
Speaking / Non-Speaking Order

To

The Sub-Registrar,
Velachery S.R.O.,
Velachery,
Chennai – 600 042.

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