

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.9.2006

CORAM

THE HON'BLE MR.JUSTICE P.JYOTHIMANI

WRIT PETITION Nos.36763 of 2006 and
M.P.No.1 of 2006

R.Babu

.... Petitioner

vs

1.Inspector General of Registration,
Office of the I.G of Registration,
Santhome High Road,
Santhome, Chennai.

2.The Sub-Registrar,
Office of the Sub-Registrar,
Purasawalkam, Chennai.

3.The Deputy Collector of Stamps,
Collectorate Buildings
Singaravelar Maaligai,
Chennai.

.... Respondents

Writ Petitions filed under Article 226 of the Constitution of India praying this Court to issue Writ of Mandamus directing the respondents to return the original registered sale deed bearing No.3570/06 registered on 30.08.2006 to the petitioner without any levy of additional stamp duty as per guideline value of Arunchalapandaram St, Purasawalkam, Chennai, pending Sec 47(A) proceedings of the Indian Stamp Act.

For petitioner :Mr.M.S.Krishnan

For respondents :Mr.D.Srinivasan Govt.Advocate

ORDER

The issue covered in this writ petition is already decided in a number of cases including the one in B.Rajappa and another Vs. The Special Deputy Collector (Stamps)and others reported in 2002 (3) CTC 544 wherein the dispute regarding the same issue is pending under Section 47-A of the same Act 1899, this Court has held that simply the pendency of that adjudication will not empower the

registering authorities to keep the documents. In that case, the Court has made some safeguard, pending adjudication of the issue under Section 47(A) of the Act which are as follows:

i) It is open to the Registering Authority to affix a seal, while releasing the original deed or conveyance or any other document indicating that a reference is pending under Section 47-A with respect to under-valuation and assessment of Stamp Duty payable, as and when the proceedings reach finality, the same shall be intimated to the person who is liable to pay stamp duty demanding payment of deficit Stamp Duty payable on the instrument.

ii) The Registrar to make corresponding entries under Section 54,55 of The Registration Act, 1908, in the Register of indexes as to pendency of proceedings under Section 47-A.

iii) On completion of adjudication as to the under-valuation by the competent authority as well as appeal or revision, if any, thereof, and depending upon the ultimate decision, the said authorities to recover deficit stamp duty according to law.

iv) Till such proceeding reaches finality and deficit is paid, there will be a charge for the deficit stamp duty, which is the subject matter of transfer or conveyance.

v) On payment of deficit stamp duty, if any payable, the Registrar may once again, on production of the original deed of transfer, make appropriate entry and recording the additional stamp duty paid and release of charge and also make consequential entries in the registers/indexes maintained under Sections 54,55 etc., of The Registration Act."

2. Learned Government Advocate also submits that the said legal position namely that the pendency of proceeding under 47-A cannot confer the registering authority to retain the original registered instrument and for the purpose of safeguarding the interest of the revenue the above said five conditions are imposed is settled.

3. Heard the learned counsel for the petitioners as also the learned Government Advocate, who has taken notice on behalf of the respondents.

4. In view of the categorical legal position which has been followed in all subsequent cases also the following order is passed directing the respondents to release the documents subject to the above said conditions as stipulated in the above said judgement reported in 2002(3) CTC 544.

5. It is also made clear that when the legal position has been settled and that has been followed in various cases, the authorities need not wait for orders to be passed. The Inspector General of Registration shall issue direction stating the directions of this Court to all the registering authorities to follow so as to avoid the pendency of proceedings before this Court and such order of release of documents in this case shall be passed within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, Connected miscellaneous petitions are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1.The Inspector General of Registration,
Office of the I.G of Registration,
Santhome High Road,
Santhome, Chennai.

2.The Sub-Registrar,
Office of the Sub-Registrar,
Purasawalkam, Chennai.

3.The Deputy Collector of Stamps,
Collectorate Buildings
Singaravelar Maaligai,
Chennai.

1 cc to Mr.M.S.Krishnan, Advocate, Sr. 46533
1 cc to Government Pleader, Sr. 46635

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