(2015) 01 MAD CK 0277

In the Madras High Court

Case No : Writ Petition No. 12074 of 2014 and M.P. No. 1 of 2014

S. Santhi APPELLANT

Vs

The Inspector General of Registration and Chief Revenue Controlling Authority and Others RESPONDENT

Date of Decision : 27-01-2015

Acts Referred:

Citation : (2015) 01 MAD CK 0277

Hon'ble Judges : T.S. Sivagnanam, J

Bench : Single Bench

Advocate : N. Subramanian for G. Mutharasu, for the Appellant; D. Suriya Narayanan, Government Advocate, Advocates for the Respondent

Final Decision : Disposed off

Judgement

T.S. Sivagnanam, J.—Heard Mr.N.Subramani, learned counsel for the petitioner and Mr.D.Suriya Narayanan, learned Government Advocate appearing on behalf of the respondents.

2. The petitioner seeks for a direction to the respondents to return the sale deed registered as Document No. 1034 of 2005 on the file of the third respondent to the petitioner without demanding any additional stamp duty under Section 47-A of the Act.

3. According to the petitioner, he had purchased a property, which is a housing site and the valuation done by the petitioner was not accepted by the third respondent and hence proceedings were initiated under Section 47-A of the Indian Stamp Act. As the value was fixed higher than the market value of the property, the petitioner was directed to remit the enhanced stamp duty and registration charges. As against which, the petitioner preferred an appeal before the first respondent and the first respondent, viz., the Inspector General of Registration, confirmed the order passed by the Special Deputy Collector(Stamps), Salem. Aggrieved by the same, the petitioner preferred CMA

No. 1306 of 2009 before this Court and the appeal was taken up along with similar other appeals. This Court by an order dated 12.03.2012, allowed all the appeals and also directed the Appellate Authority, viz., the Inspector General of Registration to deal with the appeal in each case on merits, after following the procedure contemplated under the Act and Rules. The petitioner would state that order was passed by this Court as early as 12.03.2012. However, till date no further proceedings has taken place. Therefore, the petitioner is before this Court.

4. In support of his contention, the learned counsel for the petitioner also relied on the decision of this Court reported in Tata Coffee Limited and K. Manohar Vs. State of Tamil Nadu and Others, (2008) 3 LW 286 , wherein this Court in identical circumstances has directed the authorities to release the documents, without prejudice to the proceedings, which is initiated under Section 47A of the Act, subject to making necessary endorsement in the said document.

5. Heard the learned Government Advocate appearing on behalf of the respondents, on the above submission.

6. It is settled legal position that the respondents, viz., the registering authority are not entitled to retain any document solely on the ground that there is a dispute pending as regards the valuation of the document and the stamp duty to be paid.

7. In the instant case, the Civil Miscellaneous Appeal filed by the petitioner as against the stamp duty fixed by the original authority, which was confirmed by the appellate authority was allowed and the order passed by the first respondent was set aside as early as 12.03.2012 and the matter has been remitted back to the first respondent. In such circumstances, the first respondent ought to have issued a fresh notice of hearing the petitioner and should have passed a reasonable order after following the due procedure under the Act and Rules. However, till no further action has been taken in the matter, hence there is no justification for the respondents to retain the document. However, it is made clear that the return of the document to the petitioner by the third respondent is subject to the further proceedings that may be initiated under Section 47-A of the Indian Stamp Act in accordance with law.

8. Accordingly, there will be a direction to the third respondent to return the document to the petitioner registered as Document No. 1034 of 2005 by making an endorsement in the form of affixing seal indicating that reference under Section 47-A with respect to under valuation and assessment of stamp duty payable is pending before the first respondent and pursuant to the order passed by this Court in CMA No. 1306 of 2009 dated 12.03.2012.

9. With the above observation, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.