

## S. Subramanian Vs The Joint Sub-Registrar-III

**Court:** Madras High Court

**Date of Decision:** Oct. 30, 2009

**Acts Referred:** Constitution of India, 1950 " Article 226  
Stamp Act, 1899 " Section 47A

**Hon'ble Judges:** M. Jaichandren, J

**Bench:** Single Bench

**Advocate:** M. Ajmal Khan, for the Appellant; Pala Ramasamy, Special Government Pleader, for the Respondent

**Final Decision:** Dismissed

### Judgement

@JUDGMENTTAG-ORDER

M. Jaichandren, J.

This writ petition has been filed praying for a writ of Mandamus to direct the Respondent to release the document of the Petitioner, registered as Document No. 62/2008, within a stipulated period.

2. It has been stated that the Petitioner's elder brother, S. Thiagarajan, had executed a release deed in favour of the Petitioner and his younger

brother, S. Swaminathan, in respect of the properties shown in the schedule of the said deed. The properties had been acquired by the Petitioner's

father and they were in his continuous possession during his life time. Thereafter, he had bequeathed all the properties in favour of the Petitioner

and his younger brother, S. Swaminathan, by way of a Will. Thereafter, the Petitioner and his younger brother had been enjoying the properties,

continuously, without any intervention from others. While so, the Petitioner's mother namely, Rajamani ammal, had claimed right and title, in

respect of the said properties. In such circumstances, the Petitioner had filed a suit, in O.S. No. 213 of 2006, on the file of the Sub Court II,

Trichy, and had also obtained an order of interim injunction restraining the Petitioner's mother from alienating the scheduled mentioned properties,

during the pendency of the said suit.

3. The elder brother of the Petitioner had also executed a release deed in favour of the Petitioner and his younger brother. When the said release

deed was presented for registration before the Respondent, it had been registered as document No. 62/2008, on 21.8.2008, on payment of the

registration fee of Rs. 2,120/-, along with the other prescribed charges. However, after registering the release deed, the Respondent chose to

withhold the same on the ground that a civil dispute was pending. Even though the Petitioner had submitted a representation to the Respondent

requesting him to release the document, registered as document No. 62/2008, there was no response from the Respondent. Thereafter, the

Petitioner had sent a legal notice, on 26.12.2008, for the release of the document. Since there was no response for the representation, the

Petitioner had presented the present writ petition before this Court, under Article 226 of the Constitution of India.

4. The Learned Counsel appearing for the Petitioner had submitted that the second Respondent had no power to retain the release deed on the

ground that a civil dispute is pending. The Respondent having registered a release deed, as document No. 62/2008, on 21.8.2008, is not

competent to withhold the same. Further, the Respondent has no power to retain the document, in view of the decision of this Court reported in

State of Rajasthan and Others Vs. Basant Nahata, and in R. Sreedher v. Registering Officer (district Registrar) 2008 (1) MLJ 342 : 2008 4 L.W.

603). The action of the Respondent in retaining the document, registered as document No. 62/2008, is arbitrary and illegal.

5. In the counter affidavit filed on behalf of the first Respondent, it has been stated that a document termed as a release deed had been presented

for registration, on 21.8.2008. On the presentation of the said document, the usual procedures and guidelines prescribed for the registration of the

properties, situated in different registration sub-districts, had been followed and the document had been kept pending for obtaining the details or

objections from other Sub-Registrar Offices. The matter was referred to the Sub Registrar, Manapparai, and the joint Registrar, Worai-yur. The

Sub Registrar, Woraiyur, vide his communication, dated 25.9.2008, had informed that a civil suit, in O.S. No. 213 of 2006, was pending and an

order of interim injunction had been obtained, in I.A. Nos. 453 and 468 of 2006. By the said injunction orders, the Petitioner's mother Rajammal

had been restrained from alienating or encumbering the suit schedule properties in question. Since the release deed had referred to the pendency of

the civil suit and as it is said that there is a Will executed, on 17.4.2006, and as there are contradictions, with regard to the release of the

properties, the Respondent had chosen to withhold the document.

6. At this stage of the hearing of the writ petition, the learned Special Government Pleader appearing on behalf of the Respondent had submitted

that the document No. 62/2008, on the file of the Respondent would be returned to the Petitioner, with the necessary endorsements and the matter

would be referred to the Deputy Collector (Stamps), Trichy, u/s 47-A of the Stamps Act.

7. In view of the submissions made by the Learned Counsels appearing for the parties concerned, the Respondent is directed to return the

document to the Petitioner after making the necessary endorsements on it, as per law, within a period of two weeks from the date of receipt of a

copy of this order. The Petitioner is to cooperate in the Section 47-A proceedings before the Deputy Special Collector (Stamps) Trichy, to enable

him to conduct and complete the proceedings, expeditiously. Accordingly, the writ petition is disposed of with the above directions. No costs.

Consequently, connected M.P.(MD) No. I of 2009 is closed.