

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2015

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.31728 of 2015

R.Paneer Selvam

.. Petitioner

Vs.

- 1 The State of Tamil Nadu
Rep. by Secretary Housing and Urban
Development Fort St. George Chennai-09.
 - 2 Principal Secretary and
Commissioner of Land Administration Chennai-05.
 - 3 The District Collector
Kanchipuram.
 - 4 The Inspector General of
Registration Registration Department
Santhome High Road Chennai.
 - 5 The Sub Registrar
Office of the Sub Registrar
Guduvanchery Chennai-202
 - 6 The Block Development Officer
Kattankolathur Panchayat Union
Kattankolathur Chennai-20
- ... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the 5th Respondent relating to Check Slip dated 3.3.2015 and quash the same and direct the 5th Respondent to register the documents in respect of lands on S.F.No 58/1A1 Vandalur Village.

For Petitioner .. Ms.P.T.Asha for
M/s.Sarvabhauman Associates

For Respondents .. Mr.P.Sanjay Gandhi
Addl.Govt. Pleader

ORDER

The petitioner is the owner of the property situated in S.F.No.58/1A1, Vandalur Village. The petitioner executed the power deed and thereafter, wants to register the same.

2. The respondent No.5 refused to register the document on the ground that there is a proposal to acquire the lands for the establishment of mofussil bus stand. Challenging the same, the present writ petition has been filed.

3. The learned counsel for the petitioner submitted that after the proceedings of respondent No.3 is of the year 2013, orders have been passed by this Court taking note of the fact that notification issued under Section 4(1) of the Land Acquisition Act, 1894 in G.O.Ms.Nos.85 to 87 Housing and Urban Development Department has been cancelled. Thus, there is no factual basis for passing the order impugned.

4. The learned Government Pleader submitted that there is a proposal to acquire the land and therefore, no interference is required.

5. A perusal of the order impugned would show that it has been passed based on the letter of the Collector issued in the year 2013. The notification issued in the year 2014 has been taken note of by this Court while passing final orders in W.P.No.7779 to 7781 dated 14.7.2014 which is extracted hereunder.

"3. When the matter was taken up, the learned counsel for the petitioners submitted that the petitioners have received a letter dated 27.3.2014, from the Secretary to Government informing that since the impugned G.O.Ms.Nos.32, 33 and 34, Housing and Urban Development (UD3(1)) Department, dated 20.02.2014, were issued under the erstwhile Land Acquisition act, 1894, the Government is now re-examining the above said notifications for cancellation, in view of the passing of new Act, namely, 'Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which came into vogue from 01.01.2014.

4. The learned Government Pleader has also admitted the said fact and brought to the notice of this Court the subsequent Government Orders in G.O.(Ms) Nos.85 to 87,

Housing and Urban Development (UD3(1))
Department, dated 12.05.2014, whereby
Section 4(1) Notification itself has been
cancelled.

5. In view of the above, no further
orders are necessary in these writ petitions
and accordingly, all these writ petitions
are closed."

6. Thus in view of the same, factually, there is no bar for
registering the power deed. Even otherwise, the mere
anticipation of acquisition proceedings cannot be a bar to
register a document. Admittedly, as on today, the petitioner is
the owner of the property. What he wants to register is a power
deed. The acquisition proceedings has not become final meaning
thereby, there is no change in title.

7. Accordingly, the order impugned is set aside. Writ
petition stands allowed. Consequently, respondent No.5 is
directed to register the document to be presented by the
petitioner subject to the payment of requisite fee. No costs.

kua

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

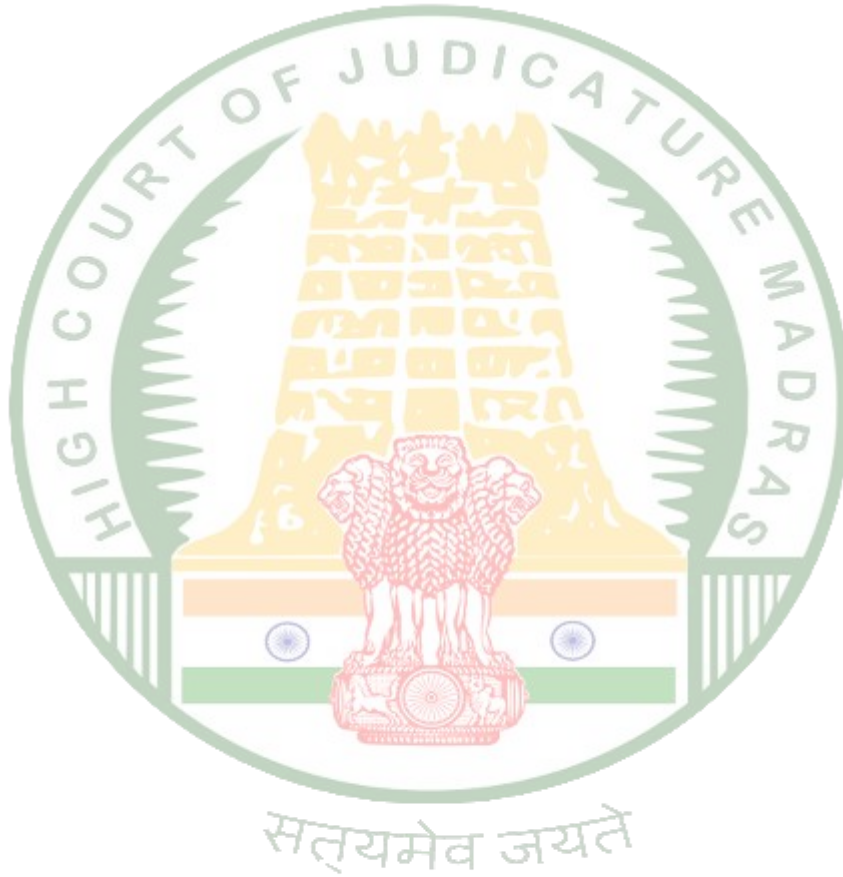
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+ 1 cc to M/s.Saravbhuman Associates, Advocate SR 59099

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