



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Writ Petition (MD)No.12191of 2015
and MP.(MD).No.1 of 2015

R.Murugesan

... Petitioner

Vs.

The Sub Registrar,
Registration Department,
Panagudi,
Tirunelveli District.

... Respondent

Prayer:Writ petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the Impugned order dated 10.07.2015 passed by the Respondent herein and quash the same and consequently direct the Respondent to register and release the Settlement deed dated 10.07.2015 in favour of Petitioner's wife namely Indira in respect of the property comprised in S.No.50/1 51/1 - B 51/3 B situated at Pazhavor Village, Part II Radhapuram Taluk, Tirunelveli District.

For Petitioner : Mr.S.Vinayak
For Respondents : Mr.K.Mahesh Raja
Govt.Advocate
ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 10.07.2015 passed by the respondent and quash the same and to direct the respondent to register and release the settlement deed dated 10.07.2015 in favour of the petitioner's wife namely Indira in respect of the property comprised in S.No.50/1, 51/1-B and 51/3B situated at Pazhavor Village, Part II Radhapuram Taluk, Tirunelveli District.

2.According to the petitioner, the property comprised in S.Nos.50/1, 51/1 - B, 51/3B to an extent of 52 cents belongs to him and Patta No.3248 for the same also stands in his name. He has also been paying necessary tax to the authorities regularly and all the revenue records namely, chitta and adangal are standing in the name of the petitioner. It is further submitted that the petitioner has purchased the said property from one Thangapandian and L.Subramanian through a registered sale deed vide document No.3101/2009 dated 07.09.2009. Even prior to the purchase of the said land by the petitioner, the same was standing in the name of his predecessor in title. Now the petitioner is cultivating the said land and he intends to execute a registered settlement deed in favour of his wife Indira with regard to the said property. Hence, he presented a settlement deed dated 10.07.2015 before the respondent and paid necessary charges by way of demand draft. Whiles, the respondent by an order dated 10.07.2015 refused to register



the said settlement deed stating that in the Encumbrance Certificate pertaining to the said property, names of some unknown persons have found place. Challenging the said order, the present writ petition has been filed.

3. When the matter is taken up for consideration, learned counsel appearing for the petitioner submitted that the petitioner has purchased the said property in the year 2009 and even prior to that, the property was standing in the name of the predecessors of the petitioner for the past 43 years. Under such circumstances, the respondent ought to have registered the settlement deed executed by the petitioner. Learned counsel has also relied upon the order passed by me in WP(MD)No.10492 of 2012 (S.M.Senthil Kumar Vs. Sub Registrar, Madurai North and others), wherein it has been held as follows:

".....Therefore, a close reading of the said Rule would show that the registering authority is bound to consider the objection only on the ground which is stated in the said Rule. Rule 55 does not provide enquiry by the Registering Officer with regard to the ownership of the seller. Therefore, the authorities concerned are bound to act only in accordance with the Act and the Rules framed thereunder. The submission of the learned Additional Government Pleader that the Registering Officers have been instructed to keep the document pending when a protest petition is presented as to the ownership of the property and only after due enquiry the Registering Officer has to decide whether to admit the registration of the document or to refuse is not legally sustainable. Hence, I do not find any justification in keeping the document pending by the first respondent. Under such circumstances, the letter issued by the first respondent is liable to be set aside and accordingly, the same is set aside. Consequently, the respondents are directed to register the sale deed dated 19.03.2012 and release the same, within a period of four weeks from the date of receipt of a copy of this order".

4. In my considered opinion the respondent can deny registration of document only by conducting enquiry on the grounds enumerated in the said Rule 55 of the Registration Rules, 1908 and therefore, the Authority concerned is bound to act only in accordance with the Act and Rules framed thereunder. Hence, I do not find any justification in the order dated 10.07.2015 passed by the respondent. Accordingly, the same is set aside and the respondent is directed to register the settlement deed and release the same within a period of four weeks from the date of receipt of a copy of this order. No costs. Connected Miscellaneous Petition is closed.

Sd/-

The Assistant Registrar(Co)

/True copy/

Sub-Assistant Registrar



To

The Sub Registrar,
Registration Department,
Panagudi,
Tirunelveli District.

+1cc to Mr.S.Vinayak, Advocate SR.No.45492/15
+1cc to special Government Pleader SR.No.45575/15

mj

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