



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Writ Petition(MD).No.12461 of 2015

E.Rajapandi

... Petitioner

Vs

1.The District Registrar,
Virudhunagar District,
Virudhunagar.

2.The Sub-Registrar,
Office of the Sub-Registrar,
Connoor, Srivilliputhur Taluk,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings of the second respondent herein, dated 14.07.2015 and quash the same as arbitrary and illegal and consequently direct the second respondent herein to register the sale deed of the petitioner herein dated 14.07.2015 and to release the same.

For petitioner : Mr.M.Thirunavukkarasu
For respondents : Mr.M.Rajarajan
Government Advocate

ORDER

This Writ Petition has been filed to call for the records relating to the impugned proceedings of the second respondent herein, dated 14.07.2015 and quash the same as arbitrary and illegal and consequently direct the second respondent herein to register the sale deed of the petitioner herein dated 14.07.2015 and to release the same.

2. Mr.M.Rajarajan, learned Government Advocate takes notice for the respondents.

3. By consent, this Writ Petition itself is taken up final disposal.

4.It is averred in the petition that the property comprised in New S.No.1714/20(Old S.No.340/Part) bearing D.No.4/99-A measuring to an extent of 0.00.38 sq. mt., belonged to the father of the petitioner. He executed a othi deed on 04.05.2015 in favour of one Karuppasamy for a period of three years. In the meantime, in order to meet out his family expenses, the father of the petitioner has executed a sale deed in favour of the petitioner and his mother Ramalakshmi and the same was presented for registration on 14.07.2015. But the second respondent instead of registering the same, has returned the said document by communication, dated 14.07.2015 stating that the property is under othi. Hence, the petitioner has come forward with the Writ Petition for the above stated relief.

5.The learned counsel for the petitioner would further submit that the second respondent cannot deny the registration of the document. In this regard, he would rely upon a judgment of this Court passed in W.P. (MD) No.12191 of 2015, dated 10.08.2015 wherein this Court, following the

earlier order passed in WP(MD)No.10492 of 2012 (S.M.Senthil Kumar Vs. Sub Registrar, Madurai North and others), disposed of the said Writ Petition. The relevant portion of the above order reads 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".

6. In my considered opinion, the second respondent can deny registration of document only by conducting enquiry on the grounds enumerated in the 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 14.07.2015 passed by the second respondent. Accordingly, the same is set aside and this Writ Petition is allowed. The second respondent is directed to register the sale deed, if the said document is otherwise eligible for registration and release the same within a period of four weeks from the date of receipt of a copy of this order. No costs.

sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

pm

To

1. The District Registrar, Virudhunagar District, Virudhunagar.
2. The Sub-Registrar, Office of the Sub-Registrar,
Connoor, Srivilliputhur Taluk, Virudhunagar District.

+one cc to Mr.M.Thirunavukkarasu, Advocate in SR.No.50013

+one cc to The Special Government Pleader in SR.No.51138

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CSL/NGM-SS/10.09.2015

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