



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 08.01.2015

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P(MD)No.164 of 2015

and

M.P(MD)Nos.1 and 2 of 2014

G.Chitra

..Petitioner

Vs

- 1.The Principal Secretary and Commissioner of Land Administration,
Government of Tamil Nadu, Chepauk, Chennai.
- 2.The Inspector General of Registration, No.100, Santhome High Road,
Chennai-28.
- 3.The District Collector, Sivaganga District, Sivaganga.
- 4.The Revenue Divisional Officer, Devakkottai, Karaikudi Taluk,
Sivaganga District.
- 5.The District Registrar, Karaikudi, Sivagangai District.
- 6.The Sub-Registrar,Karaikudi,Sivagangai District.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order made by the fourth respondent by his proceedings in Na.Ka./A1/1357/09, dated 25.3.2009 insofar as it relates to the Petitioner's lands in Old S.No.65/8 in Kalanivasal Village, Karaikudi Taluk, Sivaganga District and quash the same as illegal and consequently to direct the 6th respondent to take on file and register the documents in respect of the said lands.

For Petitioner :M/s.M.Mahaboob Athiff
for M/s.Ajmal Associates

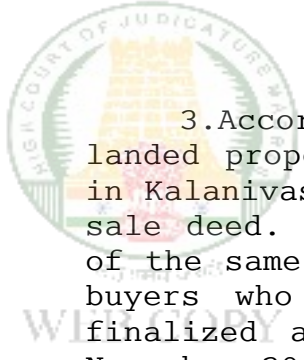
For R1, R3 and R4 :Mr.S.Chandrasekar
Government Advocate

For R2, R5 and R6 : Mr.N.S.Karthikeyan
Additional Government Pleader

ORDER

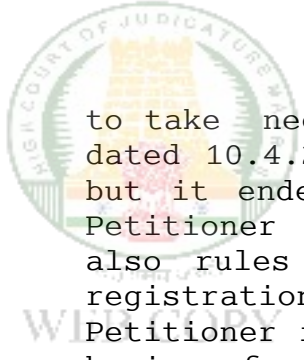
Heard the learned counsel for the Petitioner; the learned Government Advocate appearing for the respondents 1, 3 and 4 and the learned Additional Government Pleader appearing for the respondents 2, 5 and 6.

2.The Petitioner has preferred the instant Writ of Mandamus praying for passing of an order by this Court calling for the records relating to the impugned order made by the fourth respondent by his proceedings in Na.Ka./A1/1357/09, dated 25.3.2009 insofar as it relates to the Petitioner's lands in Old S.No.65/8 in Kalanivasal Village, Karaikudi Taluk, Sivaganga District and quash the same as illegal and consequently to direct the 6th respondent to take on file and register the documents in respect of the said lands.



3. According to the Petitioner, who is a Home Maker, she purchased the landed property measuring to an extent of 2175 sq.fts in Survey No.65/8 in Kalanivasal Village, Karaikudi Taluk from one Iyappan by a registered sale deed. From that time onwards, she was in possession and enjoyment of the same. Since she was in need of money, she was approached by a few buyers who offered to buy her property and when transactions got finalized and when she visited the office of the 6th respondent in November 2014, she was informed that no document for deed witnessing any conveyance of any property in S.No.65, Kalani vasal Village of Karaikudi Taluk could be registered on account of the impugned proceedings issued by the fourth respondent. It comes to be known that on a reasonable enquiry made by the Petitioner, she was able to obtain photo copy of the impugned proceedings, dated 25.3.2009 in any by which the fourth respondent directed the sixth respondent (Sub-Registrar, Karaikudi) not to register any document with regard to lands in S.No.65/1 and 2 of Kalanivasal village. The said impugned proceedings was passed on the ground that the said lands in S.No.65 was wrongly sub-divided by the then Assistant Settlement Officer, Madurai without any jurisdiction. Only on the strength of the impugned proceedings, it transpires that the sixth respondent has been refusing to entertain any documents for registration. Immediately, she preferred a representation to the respondents 1 to 3 and 5 seeking their intervention detailing as to how the fourth respondent has no power under the Registration Act, 1908 or any other law to direct the sixth respondent to perform his statutory duty. That apart, such order is an illegal one besides the same is being passed without jurisdiction. Pursuant to her representation, she was informed by the second respondent through proceedings, dated 20.1.2012 to the effect that already it was clarified to the fifth respondent that the Registrars should not refuse registration. That apart, the first respondent had also by his communication 10.04.2012 had stated that the Government has been appraised of the fact that lands in S.No.65 of Kalanivasal village are classified as Ryotwari Dry and not vested in the Government at the time of settlement and the third respondent has misconstrued the order passed by the Assistant Settlement Officer, Madurai between the year 1983-1985 was beyond its jurisdiction and considered those orders on par with the other fraudulent orders passed by the Assistant Settlement Officer, Madurai after the year 1996. It is due to this misconception of the fact by the fourth respondent by means of impugned order, directed the fourth respondent not to register any document in respect of such lands. Added further, in the said proceedings dated 10.4.2012, the first respondent had also mentioned as the lands/subject-matter of the impugned proceedings are not classified as Government Poramboke Land nor Anadheenam Lands and the fourth respondent had no justification or jurisdiction to suspend the registration of documents in respect of Survey No.65, Kalanivasal Village, Karaikudi and therefore requested the third respondent/District Collector, Sivaganga District, Sivaganga to direct the fourth respondent/Revenue Divisional Officer Devakkottai to withdraw the memo, dated 25.03.2009. Despite the said communication, dated 10.4.2012 of the first respondent, the impugned proceedings has not been withdrawn till today and thus remains in force till date.

4. The main grievance of the Petitioner is that the sixth respondent is not permitting her to present the documents/deeds in respect of the property for registration and consequently she preferred a representation detailing the above facts requesting the third respondent



to take necessary action as per the proceedings of the first respondent, dated 10.4.2012 with a view register the deeds in respect of her land, but it ended futile. That apart, it is represented on behalf of the Petitioner that the Registration Act, 1908 is a self contained Act and also rules made thereunder is exhaustive one governing the power of registration authority. In effect, the primordial stand of the Petitioner is that the sixth respondent cannot refuse registration on the basis of the instructions issued by the Government or any other body/authority as the case may be. The authority concerned is not empowered to send a communication to another authority not to entertain any sale deed in respect of the survey number in question.

5.The learned counsel for the Petitioner seeks in aid of the decision of this Court in *T.Sundar .vs. The Sub Registrar, Office of the Sub-Registrar,Palayamkottai, Tirunelveli and another reported in 2010(2) CWC 159* whereby and whereunder in paragraphs 11 and 12, it is observed and laid down as follows:

“11.Next, it was pointedout by the learned counsel for the Petitioners that a communication has been sent by the second respondent to the first respondent not to entertain any sale deed in respect of the said survey numbers. The Honourable Division Bench of this Court had decided the scope of such direction in the nature of prohibition and whether the same could be issued by either the Government or any other body to the said registration of assurance directing him not to entertain any document. In *Thiyavalli Panchayathai Serntha Nochikkadu Grama Vivasayigal Pathukappu Matrum Makkal Pothunala Sangam*, represented by its Secretary, *Nochikkadu . vs. The Chairman, Tamil Nadu Electricity Board and three others*, 2008(3) LW 766, the Honourable Division Bench of this Court held that there is no provision under the statute where the State Government or the respondents therein can validly issue any directions refusing to register any document for which registration is permissible under the provisions of the Act.

12.Therefore, in view of the law laid down by the Honourable Division Bench of this Court, the direction issued by the Second Respondent to the First Respondent is also to be held as unsustainable. In fact, the learned counsel for the Petitioners would submit that the release of the document is always subject to the right which has already accrued in favour of the Tamil Nadu Housing Board by resisting to release the document by the Board is not justifiable.”

6.It is to be noted that in the aforesaid decision *T.Sundar .vs. The Sub Registrar, Office of the Sub-Registrar,Palayamkottai, Tirunelveli and another reported in 2010(2) CWC 159*, in regard to the direction given by the respondent therein to the Registration Authority not to register certain documents pertaining to certain survey numbers and hold that there is no provision under the statute which enables the respondent to give direction to that effect and further the document for which registration is permissible under the Registration Act has to be registered.



7. Apart from the above, the learned counsel for the Petitioner invites the attention of this Court to the order dated 25.4.2014 in W.P (MD) No. 13811 of 2012 between K. Rajaguru and the Principal Secretary and Commissioner of Land Administration, Chepauk, Chennai, whereby and whereunder in paragraph 8 to 10 it is observed and held as under:

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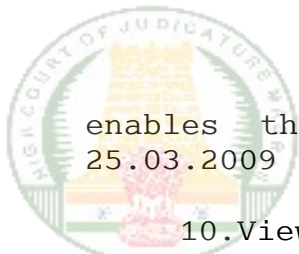
“8. On a misconception that the survey Nos. 65/1 and 65/2 are related to Government properties, the fourth respondent, by memo dated 25.3.2009 which is impugned herein, directed the Sub-Registrar, not to register the documents presented for registration. Subsequently, the Principal Secretary and Commissioner of Land Administration, by letter dated 10.4.2012, requested the Collector to direct the Revenue Divisional Officer, Devakkottai to withdraw the memo dated 25.3.2009, which is impugned herein and inform the same to the Registration Department. But, till date, the said letter has not been withdrawn, so that the authorities continued refusing registration of the document presented by the Petitioner.

9. The Government filed a counter affidavit referring to the direction given by the Revenue Divisional Officer, Devakkottai, so that the document sought to be registered was not registered. Now, the Government itself requested the District Collector, by letter dated 10.4.2012, to direct the Revenue Divisional Officer, Devakkottai, to withdraw the memo dated 25.3.2009, which is impugned herein and on that score, the impugned order is liable to be set aside.

10. In view of the foregoing reasons and also in view of the decision cited supra, the Writ Petition is allowed and the impugned memo dated 25.03.2009 is set aside and the sixth respondent is directed to register the document presented by the Petitioner, if it is otherwise found fit and release the same, within a period of two weeks from the date of receipt of a copy of this order. Consequently, the connected miscellaneous Petitions are closed. No costs.”

8. The pith and substance of the submission of the learned counsel for the Petitioner is that the Registration Authority under the Registration Act, 1908 has no power to refuse registration of the document which is permissible to be registered. As such, in the instant case, in the impugned order passed by the fourth respondent, dated 25.03.2009 whereby the direction given to the Sub-Registrar-I and Sub-Registrar-II of Karaikudi not to register the documents in respect of S.No. 65 (Sub-divided from 298 to 323 as new numbers) and imposing temporary ban is not a legally valid one in the eye of law.

9. Considering the submissions advanced on behalf of the Petitioner and also this Court taking note of the same, is of the considered view that no direction can be issued by one authority of the Registration Department to other/another authorities concerned of the same department to the effect that they shall not register the documents in question and in effect, there is no provision under the Registration Act, 1908 which



enables the fourth respondent to issue the impugned order, dated 25.03.2009 insofar as the present case is concerned.

10. Viewed in that perspective, the impugned order, dated 25.03.2009 bristles with infirmities, material irregularities and patent illegalities in the eye of law in the considered view of this Court. Consequently, this Court left with no other option, but to set aside the impugned order passed by the fourth respondent, dated 25.03.2009. Resultantly, the Writ Petition succeeds.

11. In the result, the Writ Petition is allowed. No costs. Consequently, the order passed by the fourth respondent dated 25.3.2009 is set aside by this Court for the reasons ascribed by this Court in the Writ Petition. As and when the Petitioner presents the document for registration, if the same is in accordance with law, then the sixth respondent shall register the same in the manner known to law and in accordance with law. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(RTI)

/ True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary and Commissioner of Land Administration,
Government of Tamil Nadu, Chepauk, Chennai.

2. The Inspector General of Registration, No.100, Santhome High Road,
Chennai-28.

3. The District Collector, Sivaganga District, Sivaganga.

4. The Revenue Divisional Officer, Devakkottai, Karaikudi Taluk,
Sivaganga District.

5. The District Registrar, Karaikudi, Sivagangai District.

6. The Sub-Registrar, Karaikudi, Sivagangai District.

- 1 cc to M/s. Ajmal Associates, S.R.No.945
- 1 cc To The Spl. Govt. Pleader, S.R.No.980

rj2

Rs/19.2.2015/5p/9c

W.P (MD) No.164 of 2015

08.01.2015