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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 16.06.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P (MD) No.9620 of 2015
and MP (MD) No. 1 of 2015

V.Dhanapalan

..Petitioner

Vs

1.The Inspector General of Registration,
Santhome High Road,
Chennai.

2. The Joint Sub Registrar No.II,
Karaikudi,
Sivagangai District.,

3.The Revenue Divisional Officer,
Devakkottai,
Sivaganga District.

4.The Tahsildar
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 pertaining to the impugned proceedings issued by the 3rd respondent in Na.Ka.A1/1357/09, dated 25.3.2009, quash the same in so far as the petitioner's property bearing Plot No.23 measuring 2400 sq.ft in Old S.No.65/35 (Originally S.No.65/33), New No.259/4 of Kalanivasal Village, Karaikudi Taluk, Sivagangai District is concerned and direct the 2nd respondent to register the deeds executed by the petitioner in respect of his above property.

For Petitioner

:Mr.R.Subramanian

For Respondents

:Mr.N.S.Karthikeyan

Addl. Govt. Pleader

ORDER

Heard the learned counsel for the Petitioner and the learned Additional Government Pleader appearing for the respondents.

2. The Petitioner has preferred the instant Writ of Certiorarified Mandamus praying for passing of an order by this Court calling for the records relating to the impugned order made by the third respondent dated 25.03.2009 and quash the same as illegal and consequently to direct the second respondent to take on file and register the documents in respect of the lands of the petitioner.



3. The main grievance of the Petitioner is that the third respondent is not permitting to present the documents/deeds in respect of the property for registration. It is represented on behalf of the Petitioner that the Registration Act, 1908 is a self contained Act and also rules made thereunder are exhaustive one governing the power of registration authority. In effect, the primordial stand of the Petitioner is that the third 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.

4. The learned counsel for the Petitioners 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 pointed out 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."

5. 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 respondents to give direction to that effect and further the document for which registration is permissible under the Registration Act has to be registered.

6. 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:

"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."

7. 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.

8. The learned counsel appearing for the respondents was put on notice. He would submit that the orders cited by the petitioners are still governing the field.

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 cases are concerned.

10. In the result, the Writ Petition is allowed. Consequently, the order passed by the third respondent dated 25.3.2009 is set aside. As and when the Petitioner presents the document for registration, if the same is



in accordance with law, then the third respondent shall register the same in the manner known to law. Consequently, connected Miscellaneous Petitions are closed. No costs.

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Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Inspector General of Registration,
Santhome High Road,
Chennai.

2. The Joint Sub Registrar No.II,
Karaikudi, Sivagangai District.,

3.The Revenue Divisional Officer,
Devakkottai, Sivaganga District.

4.The Tahsildar, Karaikudi, Sivagangai District.

+1cc to M/S.R.Subramanian, Advocate in SR.No 31313

+1cc to Special Government Pleader in SR.No. 31377.

TS/29.06.2015/4P -7C

W.P (MD) No.9620 of 2015

16.06.2015