

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 02-09-2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.30058 of 2014

Mr.R. Rajendran

.. Petitioner

Vs

1.The Inspector General of Registration
Office of the Inspector General of Registration
No.120, Santhome High Road
Chennai-28.
2.The District Registrar
Karungalpalayam
Erode-638 003.
3.The Sub Registrar
Ammapettai
Erode District - 638 311.

.... Respondents

Prayer : The writ petition is filed to issue a Writ of Mandamus, directing the third respondent to release the sale deed presented by the petitioner, dated 10.6.2014 pending on the file of the said respondent, bearing Document No.P.20/2014.

For Petitioner
For Respondents

: M/s.E.C. Ramesh
: Mr.K. Dhananjayen
Special Govt. Pleader

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Heard the learned counsel, appearing on behalf of the petitioner, as well as the learned counsel, appearing on behalf of the respondents.

2. This writ petition has been filed, praying that this Court may be pleased to issue a Writ of Mandamus, directing the

third respondent to release the sale deed presented by the petitioner, dated 10.6.2014, pending on the file of the said respondent, bearing Document No.P.20/2014.

3. The petitioner has stated that one Chithiya Gounder was the absolute owner of the land in question. After his demise, one Kannammal, who was his wife, had executed a registered Will, dated 04.02.1983, in favour of one Visveswaran, the vendor, on the file of the Sub Registrar, Bavani, bearing Document No.P20 of 2014.

4. The said Kannammal had died, on 7.8.1989. Thereafter, the said Visveswaran was in possession and enjoyment of the schedule mentioned property, from the date of the death of Kannammal, without any dispute or encumbrance. He has been paying the kists, electricity charges, property tax, and other charges, relating to the property in question.

5. While so, the petitioner had purchased the property, by way of a registered sale deed, dated 10.6.2014, from Visveswaran the vendor, for valuable consideration. However, when the said document had been presented for registration, before the third respondent, he had raised certain queries as to whether the vendor of the property, namely, Visveswaran, is having a transferable title? Therefore, a show cause notice, dated 16.6.2014, had been issued, under Section 35(3) of the Registration Act, 1908.

6. In such circumstances, the petitioner has preferred the present writ petition, under Article 226 of the Constitution of India.

7. A counter affidavit has been filed on behalf of the first respondent stating that even though the said Visweswaran has been shown as the vendor of the property, in the sale deed presented by the petitioner before the third respondent, the actual legatees, as per the Will, dated 4.2.1983, registered as Document No.21 of 1983, on the file of the Sub Registrar, Bavani, are R.Sidharama Gandhi, and his minor sons, namely, Mahendran and Balaji.

8. It has also been stated that a civil suit has been filed, by R.Sidharama Gandjhi and his sons, against the vendor of the petitioner, in O.S.No.1215 of 2004, on the file of the I Additional District Court, Erode, and a decree had been obtained in their favour. An Execution Petition had also been filed, in E.P.No.200/2007, for taking over the possession of the property in question.

9. In such circumstances, the third respondent had issued a notice to the petitioner, dated 16.6.2014, under Section 35(3) of the Registration Act, 1908, asking the petitioner to clarify about the validity of the title of the said Visveswaran. However, the petitioner had not appeared, before the third respondent, till date.

10. In such circumstances, the relief prayed for by the petitioner ought not to be granted, by this Court. Hence, the writ petition may be dismissed.

11. In view of the submissions made by the learned counsels, appearing for the petitioner, as well as the respondents and on a perusal of the records available, this Court is of the considered view that the third respondent has issued a notice to the petitioner, dated 16.6.2014, calling for an explanation from the petitioner, in respect of the title of the property sought to be transferred.

12. This Court does not find any illegality with regard to the issuance of the notice, by the third respondent. Even though the third respondent cannot conduct a roving enquiry, with regard to the title of the property sought to be conveyed, by way of a registered sale deed presented before him, it would be open to the registering authority to conduct a preliminary enquiry to satisfy himself about the validity of the transfer and to see as to whether the vendor has a transferable title.

13. In such circumstances, this Court finds it appropriate to dismiss the writ petition. Hence, the writ petition stands dismissed. However, as the learned counsel, appearing on behalf of the petitioner had submitted that the petitioner may be given an opportunity to clarify the doubts, which had been raised by the third respondent, the petitioner is permitted to appear before the third respondent, on 19.9.2016, along with the relevant documents, to show that the vendor of the property in question has a transferable title, to transfer the same, in favour of the petitioner, by way of a sale deed, dated 10.6.2014.

14. Thereafter, if the third respondent is convinced by the explanation to be presented by the petitioner, with the relevant documents, then he could proceed with the registration of the sale deed presented before him. However, if the third respondent is not convinced by the explanation presented by the petitioner, he may follow the procedures prescribed by law. In that event, it may also be open to the petitioner to seek his remedy, if any, before the appropriate civil forum, in the manner known to law.

The writ petition is dismissed with the above directions.
No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

rnb

To

1.The Inspector General of Registration
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+1 CC to Government Pleader, Sr.No.50377

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KGK (CO)
MD : 20/10/2016

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