

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2016

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.16580 of 2016

1.M.Gagan Bothra
2.M.Sandeep Bothra

...Petitioners

-Vs-

1 The District Revenue Officer
(Stamps) Office of the Collector of Chennai
Rajaji Salai Chennai.

2 The Sub Registrar
Triplicane, Chennai.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 1st respondent to release the original Sale Deed document bearing Number 259 of 2015.

For Petitioners : Mr.M.Gagan Bothra (party-in-person)

For Respondents : Mr.P.Sanjai Gandhi. Addl Govt. Pleader

O R D E R

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

2. The petitioners in the affidavit filed in support of the writ petition would aver among other things that they are owners of the land and building comprising of New Door No.2, Old Door No.32, Chinna thambi Mudali Street, Thiruvoteeswaranpet, Chennai-600 005 comprised in New Survey No.176/1, (as per patta T.S.No.176/12) Old Survey No. 312, C.C.No.278, Triplicane Village, Mylapore-Triplicane Taluk, Chennai District by means of sale deed dated 26.12.2014 for a sale consideration of Rs.1,50,00,000/- (One crore and fifty lakhs). The sale deed on presentation, was registered in the office of the 2nd respondent in document No.259 of 2015 and the registration also reflects in the encumbrance certificate for a period between 01.3.2014 and 24.3.2016.

3. The grievance expressed by the petitioners is that despite the registration of the sale deed dated 26.12.2014, the same has not been returned and in this regard, a representation dated 28.03.2016 was submitted to the first respondent and since no orders have been passed, came forward to file this writ petition.

4. Mr.M.Gagan Bothra the first petitioner appearing as party in person has drawn the attention of this Court to the order dated 07.11.2014 made in W.P.No.17922 of 2014 - G.VICTORIA VS. THE DISTRICT REGISTRAR, DISTRICT REGISTRATION OFFICE, PUDUKOTTAI, PUDUKOTTAI DISTRICT AND ANOTHER, which in turn places reliance on the Judgment reported in 2013(1) CWC 704 - KANNAMMAL VS. THE SUB REGISTRAR O/o. THE SUB REGISTRAR, KANCHIRAPPALAYAM, CHINNASALEM TALUK, VILLUPURAM DISTRICT and would submit that in the light of the ratio laid down in the above said Judgment, once document is registered, it should not be retained and it should be returned to the petitioner forthwith.

5. Per contra, Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing on behalf of respondents 1 and 2 would submit that since the value given in the document is not the correct reflection of the market value, it has been retained for initiating appropriate proceedings.

6. This Court has considered the rival submissions and also perused the materials placed on record.

7. It is relevant to extract paragraph 3 of 2013(1) CWC 704 (cited supra) which reads as follows:

"3. The learned Counsel appearing for the Petition would submit that the Act of the First Respondent in not registering the Sale Deed on the ground raised is in violation of the powers conferred under Sections 35 & 74 of the Registration Act, 1908. The Registering Authority cannot convert himself into a Civil Court and seek to decide disputed questions of title. He also referred to the recent judgment of this Court reported in Appourva J.Patel v. The Inspector General of Registration, Santhome High Road, Santhome, Chennai - 600 028 and others, 2012 (4) CTC 689, wherein this Court has clearly held that it is not the job of the registering officer under the Registration Act to find out if the title has passed on. If the Registering Authority is vested with such power a Sub-Registrar would turn himself into a Civil Court and decide disputed questions of title. Therefore, when that is the legal position well

settled by this Court, the conduct of the Registration Authority in not registering is totally illegal and Arbitrary and therefore, prays for appropriate direction to be given to the Registrar, the First Respondent herein. He also adds that the Respondent 2 and 3 are only the vendors of the Petitioner who had executed a Sale Deed in favour of the petitioner which was presented for registration."

8. In the light of the ratio laid down in the above cited decision, writ petition is disposed of and the second respondent is directed to release the sale deed bearing document No. 259 of 2015 registered on the file of The Sub Registrar, Triplicane, Chennai after making necessary endorsement, within a period of one week from the date of receipt of a copy of this order. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

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To

- 1 The District Revenue Officer
(Stamps) Office of the Collector of Chennai
Rajaji Salai Chennai.
- 2 The Sub Registrar
Triplicane, Chennai.

2 ccs to Mr.M. Gagan Bothra, party in person Sr. 29923

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