

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.24242 of 2014

P.Shanmugam.

... Petitioner

Vs.

1. The Inspector General of Registration  
Santhome, Chennai-28.

2. The Sub Registrar  
Palacode, Dharmapuri District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus to call for the records of the second respondent relating to the impugned proceedings bearing Ni.A.No.25/2014 dated 04.07.2014 quash the same and direct the 2<sup>nd</sup> respondent to accept the sale deed presented by the petitioner in respect of the lands in S.No.997, Ward No.5 Palacode Town and Taluk, Dharmapuri District.

For Petitioner : M/s.R.Subramanian

For respondents : M/s.P.Rajalakshmi,  
Government Advocate

ORDER

With the consent of both sides, the Writ Petition is taken up for final disposal.

2.The petitioner has come up with the present writ petition for issuance of writ of certiorarified mandamus to call for the records from the second respondent relating to the impugned proceedings bearing Ni.A.No.25/2014 dated 04.07.2014 and to quash the same and direct the 2<sup>nd</sup> respondent to accept the sale deed presented by the petitioner in respect of the lands in S.No.997, Ward No.5 Palacode Town and Taluk, Dharmapuri District.

3.The petitioner intends to purchase the above said property from the legal heirs of late Muniappa Gounder. The petitioner presented the sale deed on 22.04.2014 before the

second respondent. The said document was kept pending by the second respondent in P25.2014, the same was communicated to the petitioner vide impugned communication dated 04.07.2014. Wherein it has been stated that the original document bearing Doc.No.807 of 1962 was not presented along with the sale deed. Aggrieved over the same, the present writ has been filed by the petitioner.

4. The respondent have filed a counter affidavit stating that the second respondent in his letter dated 04.07.2014 stated that as per the circular 18229/C1/2012 dated 25.04.2012 of the Inspector General of Registration, Chennai, the document was kept pending not only for production of the original document bearing No.807/1962 but also for production of patta and tax receipt to identify the property. The other reason is there was a notice from an Advocate namely M.Kumaraselvam dated 30.01.2013 on behalf of his clients (i) P.Murugesan (Orru Goundar) and (ii)Madhaiyan (Manthiri Goundar) stating that the respondent should not register the property, because the property is a Temple Land and the petitioner doesn't have any right over the property. Further in the document No.807 of 1962, no survey number relating to the property was mentioned. But in the present document which is pending, for registration the survey number was mentioned as Natham Survey No.997, but, no revenue records was produced to ascertain the correctness of the same. The Survey number 997 of Palacode revenue village is not Natham as per the "A" register and the same is classified as Ryotwari dry land, which was owned by 11 persons and none of them were the executants of the parent document. Thus, the second respondent prays for dismissal of the writ petition.

5.The learned counsel for the petitioner submitted that by virtue of sale deed dated 03.03.2014, the petitioner intends to purchase the property from the legal heirs of the Late Muniappa Gounder, since the original parent document No.807 of 1962 was lost, the petitioner was not in a position to produce the original sale deed and hence the second respondent passed the impugned order. Further, the learned counsel for the petitioner submitted with regard to loss of original parent document, police complaint was given on 02.05.2014 to trace the original document and paper publication was also effected on 20.06.2014. Now, the petitioner is preferred to produce the certified copy of the document No.807 of 1962, along with paper publication and police complaint copy to the respondent.

6.In this regard, the petitioner has also invited the attention of this Court to Circular dated 25.04.2012 issued by the first respondent. Clause (c) of the circular reads as follows :

“(C) In case the previous original document is lost, the party shall produce certified copy of the document, copy of complaints recorded in police station and copy of advertisement published in local dailies regarding loss of documents. In such case, the party has to produce patta/property tax receipt in original.”

7. Thus by relying upon the above said clause, the petitioner has submitted that he is ready to produce the certified copy of the parent document, complaint copy and the paper publication effected regarding the loss of document and also other necessary documents to the respondents and thus appealed to this Court to quash the impugned order passed by the second respondent and direct the respondents to accept the sale deed presented by the petitioner.

8. The learned Government Advocate submitted that the rejection order is passed for not only to produce the original document, but for also for other reasons. In this regard, the learned Government Advocate has drawn the attention to the counter affidavit, wherein it is stated that one Advocate M.Kumaraselvam on 30.01.2013 issued a legal notice on behalf of his clients stating that the respondents should not register the document, because the property is a Temple land and the petitioner doesn't have any right over the property. In paragraph 5 of the counter affidavit, it is also stated that in the Document Number 807 of 1962 no survey number relating to the property was mentioned, but in the pending sale deed survey number was mentioned as Natham Survey No.997.

9. By way of reply, the counsel for the petitioner submitted that non-production of original document No.807 of 1962 alone was shown as a reason for not registering the document, but, in the counter affidavit it is stated that document was kept pending not only for production of original document, but also for production of patta and tax receipt and for some other reasons also. Thus the learned counsel for the petitioner submitted that the respondents cannot improve their case in the counter affidavit by adding additional reasons which is not mentioned in the impugned order.

10. Heard the submissions of learned counsel appearing for the petitioner and the learned Government Advocate who accepts notice on behalf of the respondents.

11. Considering the facts and circumstances and also taking note of the submission made by the counsel for the petitioner that he is ready to produce certified copy of document No.807 of 1962 and other necessary documents to its record, this Court is of the opinion that it is proper and fit case to set aside the impugned order and remit back the matter

to the second respondent. Accordingly, the impugned order is set aside and the petitioner is permitted to produce the certified copy of document No.807 of 1962 and copy of the complaint dated 10.05.2014 and paper publication effected on 20.06.2014, by the legal heir of late Muniappa Gounder, for loss of original document along with necessary documents before the second respondent. On receipt of the same, the second respondent is directed to pass appropriate orders, with regard to registration of sale deed within a period of six weeks from the date of receipt of production of documents by the petitioner, by conducting enquiry after affording opportunity of personal hearing to the petitioner as well as to the necessary parties, if any.

12.The writ petition is disposed of accordingly. No costs.

Sd/-  
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration  
Santhome, Chennai-28.
2. The Sub Registrar  
Palacode, Dharmapuri District.

+1cc to Mr.R.Subramanian, Advocate, S.R.No.9293  
+1cc to the Government Pleader, S.R.No.9144

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JP(CO)  
CA(25/02/2016)

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