

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.30057 of 2015

J.Uma Maheswari

... Petitioner

vs.

- 1.The Inspector General of Registration,
Santhome High Road,
Pattinapakkam,
Chennai 600 028.
- 2.The District Registrar,
Tiruppur District.
- 3.The Joint Sub Registrar-II,
Tiruppur.
- 4.The Executive Officer,
Arulmigu Visweswara Swamy &
Veeraragava Perumal Temples,
Easwaran Koil Street,
Tirupur - 641 604.
- 5.The Commissioner
Hindu Religious and Charitable Endowment Department,
Uttamar Gandhi Salai,
Nungambakkam,
Chennai 600 034.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus, directing the respondents 1 to 3 herein to admit and register sale deed with respect to the petitioner's patta land comprised in T.S.No.17/5/A1B Part measuring an extent of 0.47 acres out of 1.04 acres situated at Block No.26, Ward-M of Tiruppur Town, Tiruppur Taluk and District.

For Petitioner	:	Mr.V.P.Sengottuvel
For R1 to R3	:	Mr.P.Sanjay Gandhi, AGP
For R4	:	Mrs.G.Sumitra
For R5	:	Mr.K.V.Dhanabalan, AGP (HR & CE)

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the respondents 1 to 3 to receive and register the sale deed with respect to her patta land comprised in T.S.No.17/5/A1B Part measuring to an extent of 0.47 acres, out of 1.04 acres situated at Block No.26, Ward-M of Tiruppur Town, Tiruppur Taluk and District.

2. The case of the petitioner, as averred in the writ petition is as follows:

2.1 Originally, the dry land comprised in Old S.F.No.166 measuring to an extent of 13.74 acres situated at Tiruppur Village, Palladam Taluk, Coimbatore District belonged to one Raya Gounder by way of a partition deed dated 06.05.1880 bearing Document No.440/1880 on the file of the Sub Registrar, Palladam. Later on, the said property was allotted to the share of one R.Chinne Gounder under Schedule 'A' by way of a registered partition deed executed among all the sons of the said Raya Gounder, bearing Document No.725 of 1909 dated 01.04.1909 on the file of the Sub Registrar, Tiruppur. From the date of the partition deed, the said R.Chinne Gounder was in absolute possession and enjoyment of the same.

2.2 After the death of the said R.Chinne Gounder, his only son C.Ponnusamy Gounder was in possession and enjoyment of the same. Thereafter, the only son of C.Ponnusamy Gounder viz., P.Chinnasamy Gounder inherited the said property and was in absolute possession and enjoyment of the same.

2.3 At the time of resurvey, the said property was assigned with T.S.No.896/2 Part of Tiruppur Village. Thereafter, during the Town survey of Tiruppur Town, the said property was assigned with T.S.No.17 measuring to an extent of 4.75.146 Hectares in Block No.26, Ward-M, Tiruppur Town and Town Survey Land Register in Patta No.1465 came to be issued in the name of P.Chinnasamy Gounder on 25.11.1989. Later on, the Commissioner, Tiruppur Municipality also issued an Extract of Town Survey Land Register for T.S.No.17, Block-26, Ward-M of Tiruppur Town in favour of P.Chinnasamy Gounder in CA/1681/90 dated 11.07.1990.

2.4 While so, P.Chinnasamy Gounder sold the land measuring to an extent of 1.04 acres comprised in T.S.No.896/2 Part situated at Ward No.28 (Old Ward No.16) Tiruppur Town bearing Patta No.1465 to one R.Rangasamy under a registered sale deed dated 14.03.1991 bearing Document No.951/1991 on the file of the Joint Sub Registrar-II, Tiruppur.

2.5 After the purchase, the said R.Rangasamy submitted an application dated 05.02.2001 to the Tahsildar, Tiruppur for sub division and mutation of the revenue records with respect to the land purchased by him. Based on the said application, the Tahsildar, Tiruppur Taluk, by his proceedings dated 20.02.2002, sub divided the land by assigning T.S.No.17/5/A1B measuring to an extent of 0.4050.0 Hectares in Block No.26, Ward -M of Tiruppur Town. Pursuant to the same, Patta No.8093 came to be issued in the name of R.Rangasamy in respect of the land purchased by him. From the date of purchase, the said R.Rangasamy was in absolute possession and enjoyment of the same by paying necessary taxes to the revenue authorities.

2.6 In such circumstances, the said R.Rangasamy settled 0.47 acres, out of 1.04 acres comprised in T.S.No.17/5/A1B measuring 0.4050.0 Hectares in Block No.26, Ward -M, Tiruppur Town to and in favour of his wife R.Susheela Devi under a registered settlement deed dated 01.08.2005 bearing Document No.3278/2005 on the file of the Joint Sub Registrar-II, Tiruppur. Subsequently, based on the application made by the said R.Susheela Devi, Joint Patta No.8093 came to be issued in the names of R.Susheela Devi and her husband R.Rangasamy in respect of the land in T.S.No.17/5/A1B.

2.7 Thereafter, the said R.Susheela Devi sold her property measuring to an extent of 0.47 acres for valuable consideration to the petitioner herein under a registered sale deed dated 15.02.2006 bearing Document No.737 of 2006 on the file of the Joint Sub Registrar-II, Tiruppur. After the purchase, the petitioner has been in possession and enjoyment of the same. She also made a representation for mutation of the revenue records in respect of the land purchased by her. Considering the said application, the Zonal Deputy Tahsildar, Tiruppur, by his proceedings dated 14.08.2006 ordered mutation of the revenue records with respect to the land in T.S.No.17/5/A1B in the joint names of R.Rangasamy and the petitioner herein.

2.8 Now, the petitioner intends to sell her property. When she approached the third respondent for registration of the sale deed with respect to her own patta land comprised in T.S.No.17/5/A1B Part measuring an extent of 0.47 acres situated at Block No.26, Ward-M, Tiruppur Town, corresponding to Old S.F.No.166, the third respondent refused to receive the same on the ground that the fourth respondent by his communication in Na.Ka.No.61/1424 dated 19.01.2015, requested the respondents 2 and 3, not to register any sale deed with respect to the lands in Old S.F.No.166 measuring to an extent of 13.74 acres, as the said lands are belonging to the temple. Therefore, the petitioner has filed this writ petition for the above stated relief.

3. When the writ petition came up for consideration, learned counsel for the petitioner drew the attention of this Court to the order dated 07.09.2015 made in WP.No.7694 of 2015, wherein, this Court, by relying on the earlier order passed in respect of the very same issue, in N.Shanmughasundaram Vs. The Inspector General of Registration, Chennai and others (W.P.No.29914 of 2014, dated 4.2.2015), disposed of the said writ petition.

4. For better appreciation, the relevant paragraphs of the order dated 07.09.2015 made in WP.No.7694/2015 are extracted hereunder:

"2. When the matter is taken up for hearing, learned counsel appearing for the 2nd respondent has produced an order passed by this Court in N.Shanmughasundaram Vs. The Inspector General of Registration, Chennai and others (W.P.No.29914 of 2014, dated 4.2.2015) concerning the very same issue, in which the respondents herein are parties. It has been held in the said decision as under:-

"3. It is submitted by the learned counsel appearing for the 4th respondent that a Civil Suit has already been filed and the same is to be shortly numbered.

4. In any event, the 3rd respondent being Registering Authority, cannot refuse to accept the document for registration. If there is valid ground to refuse for registration, then the 3rd respondent should pass an order on the same and merely because a letter has been given by the 4th respondent cannot be a ground, even refusing to accept the document.

5. Accordingly, there will be a direction to the petitioner to present the document for registration before the 3rd respondent, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the 3rd respondent is directed to consider the same, after issuing notice to the petitioner and the 4th respondent and pass reasoned order on merits and in accordance with law, within a period of four weeks from the date on which, the document is presented. It is open to the petitioner

as well as the 4th respondent temple to produce the documents/proof, if any, in support of their claim before the 3rd respondent.''

3. Considering the same, the writ petition stands disposed of by directing the 1st respondent to issue notice to both petitioner and the 2nd respondent and take appropriate action in accordance with law within a period of eight weeks from the date of receipt of copy of this order in the light of the decision referred supra. No costs."

5. Considering the facts and circumstances of the case and also in the light of the order as extracted above, this Court permits the petitioner to represent the document for registration along with a representation enclosing all the necessary documents and a copy of this order to the third respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the third respondent is directed to conduct enquiry by issuing notice to the petitioner as well as respondents 4 and 5 and pass appropriate orders within a period of eight weeks thereafter. It is made clear that this Court is not expressing any opinion with regard to the merits of the claim made by the petitioner and it is for the third respondent to pass appropriate orders purely on merits and in accordance with law and also in the light of the order referred to above.

6. The writ petition is disposed of accordingly. No costs.
rk

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

- 1.The Inspector General of Registration,
Santhome High Road,
Pattinapakam, Chennai 600 028.
- 2.The District Registrar, Tiruppur District.
- 3.The Joint Sub Registrar-II, Tiruppur.

4.The Executive Officer, Arulmigu Visweswara Swamy &
Veeraragava Perumal Temples, Easwaran Koil Street,
Tirupur - 641 604.

5.The Commissioner, HR&CE Dept.,
Nungambakkam, Chennai-34.

+ 1 cc to M/s.G.Sumitra, Advocate SR 26541

+ 1 cc to Mr.V.R.Sengottuvel, Advocate SR 26703

pa(co)
prk18/5

W.P.No.30057 of 2015



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