

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.3175 of 2015

and

MP.No.1 of 2015

R.Durai Petitioner

Vs.

1.The District Collector,
Perambalur District,
Perambalur.

2.The Sub Registrar,
Veppanthattai,
Perambalur District.

3.The Tahsildar,
Veppanthattai Taluk,
Perambalur District.

.... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 22.12.2014 made in Na.Ka.No.565/14 on the file of the second respondent, quash the same by directing the second respondent to restore the land value in the guideline register and consequently direct the third respondent grant patta to his house site No.113 measuring an extent of 1300 sq.ft bearing S.Nos.441/4, 441/6, 442/3 and 479/1 of Udumbiyam Village, Veppanthattai Taluk, Perambalur District by considering the petitioner's representation dated 19.12.2014.

For Petitioner : Mr.N.Manokaran

For Respondents : Mrs.P.Rajalakshmi,
Govt.Advocate

ORDER

The petitioner has come up with the present writ petition challenging the communication dated 22.12.2014 issued by the second respondent and consequently, directing the second respondent to restore the land value in the guideline register and also directing the third respondent to grant patta in respect of his house site bearing No.113 measuring to an extent of 1300 sq.ft in S.F.Nos.441/4, 441/6, 442/3 and 479/1, Udumbiyam Village, Veppanthattai Taluk, Perambalur District, by considering his representation dated 19.12.2014.

2. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

3. It is the case of the petitioner that he purchased a house site bearing No.113 measuring to an extent of 1300 sq.ft. comprised in S.F.Nos.441/4, 441/6, 442/3 and 479/1 under a registered sale deed dated 15.05.2009 bearing Document No.1821/2009 from one A.Kaliyamoorthy, who is the power agent of one M.Vijaya. After getting the original sale deed, he has taken steps to effect mutation in the revenue records in his name for the purpose of getting an approval for construction. While so, he came to know that the respondents 2 and 3 have treated the petitioner's land in S.F.Nos.441/4, 441/6, 442/3 and 479/1 as 'Zero' value. Hence, he made two petitions dated 19.12.2014 i.e., one to the second respondent requesting to restore the land value to its original value and another to the third respondent requesting to grant patta in his name in respect of his property. While the third respondent is keeping the petition seeking patta as pending, the second respondent, by his communication dated 22.12.2014, informed that the subject land has been valued as Zero in the guideline register and the value fixed in respect of S.F.No.468/1 by the District Registrar was in accordance with the direction issued by this Court. Aggrieved by the said communication, the petitioner has filed the present writ petition for the above stated relief.

4. A counter affidavit has been filed by the second respondent inter alia stating as follows:

(i) The communication which is impugned herein, would clearly state that S.F.Nos.441/4, 441/6, 442/3 and 479/1 of Udumbiyam Village, Veppanthattai Taluk, Perambalur District come under the land allotted to the Adi dravidars and therefore, the same have been recorded as 'Zero' guideline value in the guideline register and the guideline value fixed in respect of S.F.No.468/1 was in compliance with the direction issued by this court.

(ii)The petitioner's request to restore the land value in the guideline register, has not been considered, because the property comes under the category of Adi dravidars' land and the guideline value in respect of the property in S.F.Nos.441/4, 441/6, 442/3 and 479/1 has been fixed as Zero value, as per the Circular No.14890/C1/2013 dated 05.04.2013 issued by the Inspector General of Registration, Chennai.

5. The third respondent has also filed a counter affidavit to the effect that as on date, the nature of lands are panchami and the character of the lands has not been changed by the competent authority. In such circumstances, the transaction made in respect of the property in question, is not valid in the eye of law.

6. When the writ petition came up for consideration, learned counsel for the petitioner has drawn the attention of this Court to the order dated 24.06.2014 made in WP.No.24061 of 2012, which was filed by one A.Kaliyamoorthy, challenging the order dated 16.08.2012 passed by the Sub Registrar, Veppanthattai, Perambalur District stating that the value of the property in R.S.No.468/1 Udumbiyam Village, Veppanthattai Taluk, Perambalur District has been fixed as Zero value and therefore, the sale deed in respect of the said property has not been registered. The said writ petition was allowed by setting aside the impugned order and by directing the Registering Authority to register the sale deed. While doing so, this Court has held as follows:

"4.The learned counsel for the petitioner would submit that when the property in question has gone through number of transactions right from 1974 and sale deeds have been registered by the Registering Authority for a value executed by Thiru Ramasamy Gounder in favour of third parties, rejecting the said registration by the impugned order holding that it has got a zero value, can never be sustained both on facts and in law. The learned counsel for the petitioner also drew my attention pertaining to the same document, various sale deeds were transacted and registered with the Registering Authority. If that be so, the rejection and refusal to register the document submitted by the petitioner arising out of the same survey number, would vitiate the order impugned. More over, there is no basis whatsoever for the Registering Authority to state that this land is not suitable for registration as it has zero value. Further, the registration was refused earlier in respect of the same land on the ground that the lands are Panchami lands and this Court in WP.No.25518 of 2011 allowed the writ petition and set aside the order passed by

the Registering Authority, While so, once again the Registering Authority has passed an order refusing to register it holding that it has got a zero value. Therefore, I find that the Registrar has not applied his mind while passing the impugned order.

5. Therefore, the order of the respondent suffers from infirmity and illegality, warranting interference by this Court. Hence, the writ petition is liable to be allowed and it is accordingly allowed. Consequently, the impugned order is set aside and the Registering Authority is directed to register the petitioner's document in respect of the property, within a period of four weeks from the date of receipt of a copy of this order."

7. Since the property involved in the said writ petition and the property in question are situated in one and the same village, i.e., Udumbiyam Village, Veppanthattai Taluk, Perambalur District, the observation rendered by this court on earlier occasion as extracted above is squarely applicable to the present case also. By applying the same, I am of the opinion, the impugned communication sent by the second respondent is not legally sustainable and the same is liable to be set aside.

8. Accordingly, the writ petition is allowed and the impugned communication dated 22.12.2014 sent by the second respondent is set aside. The second respondent is directed to register the document in respect of the house site bearing No.113 in S.F.Nos.441/4, 441/6, 442/3 and 479/1, Udumbiyam Village, Veppanthattai Taluk, Perambalur District, if not already registered and to restore the land value in the guideline register. The third respondent is also directed to conduct enquiry on the petitioner's representation dated 19.12.2014 and pass an appropriate order with regard to grant of patta to the petitioner, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner as well as to all the necessary parties, if any. The entire exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

rk

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The District Collector,
Perambalur District,
Perambalur.

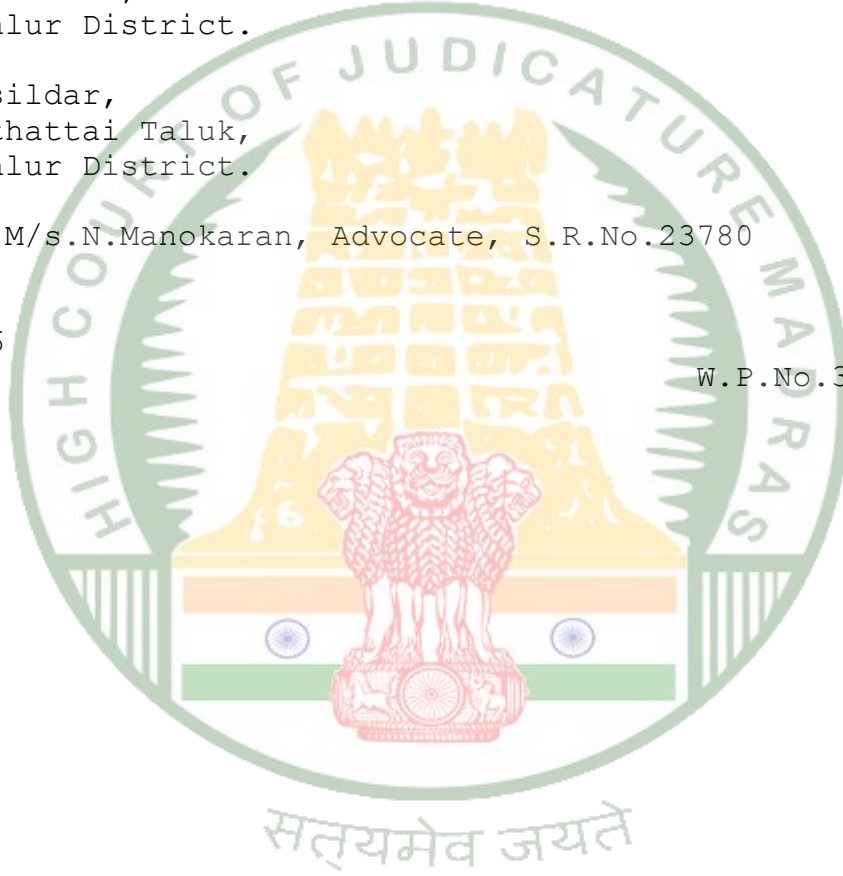
2.The Sub Registrar,
Veppanthattai,
Perambalur District.

3.The Tahsildar,
Veppanthattai Taluk,
Perambalur District.

+ 1 cc to M/s.N.Manokaran, Advocate, S.R.No.23780

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