

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2016

CORAM

THE HONOURABLE MR.JUSTICE R. SUBBIAH

W.P. No. 35769 of 2015

&

M.P. Nos. 1 & 2 of 2015

M/s.R.R.P. Housing Private Ltd.,
rep. by its Managing Director,
N. Padmanabhan,
No.12/6, Achuthan Nagar,
1st Street, Old Poonamallee Road,
Ekkattuthangal,
Chennai - 600 032.

..Petitioner

Vs.

1. The Inspector General of Registration,
O/o. The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate, Chennai - 600 028.

2. The Sub Registrar,
Sub Registrar Office,
Thiruporur,
Kancheepuram District.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus forbearing the 2nd respondent from refusing to receive and register the documents executed by the petitioner in respect of the lands comprised in S.No. 156/1, which was subdivided thereafter as S.No. 156/1B, S.No. 156/1C, S.No. 156/1D, S.No. 156/1A2, S.No. 156/1A3, S.No. 156/1A4, S.No. 156/1A5, S.No. 156/1A9, S.No. 156/1A6, S.No. 156/1A7, S.No. 156/1A8 and S.No. 156/1A1, situated at Kannivakkam Village, Kancheepuram District and consequently return the documents kept pending in Document Nos. P201500171, P201500159, P201500146, P201500145, P201500140, P201500127, P201500123, P201500124, P201500125, P201500126, P201500105 and P201500106 dated 08.10.2015, 25.09.2015, 14.09.2015, 08.09.2015, 31.08.2015, 24.08.2015, 28.08.2015 and 23.07.2015 respectively on the file of the 2nd respondent forthwith.

For Petitioner :: Mr.G. Ethirajulu

For Respondents:: Mr.P. Sanjay Gandhi,
Addl. Govt. Pleader

O R D E R

This writ petition is filed for issue of a Writ of Mandamus forbearing the 2nd respondent from refusing to receive and register the documents executed by the petitioner in respect of the lands comprised in S.No. 156/1, which was subdivided thereafter as S.No. 156/1B, S.No. 156/1C, S.No. 156/1D, S.No. 156/1A2, S.No. 156/1A3, S.No. 156/1A4, S.No. 156/1A5, S.No. 156/1A9, S.No. 156/1A6, S.No. 156/1A7, S.No. 156/1A8 and S.No. 156/1A1, situated at Kannivakkam Village, Kancheepuram District and consequently return the documents kept pending in Document Nos. P201500171, P201500159, P201500146, P201500145, P201500140, P201500127, P201500123, P201500124, P201500125, P201500126, P201500105 and P201500106 dated 08.10.2015, 25.09.2015, 14.09.2015, 08.09.2015, 31.08.2015, 24.08.2015, 28.08.2015 and 23.07.2015 respectively on the file of the 2nd respondent forthwith.

2. The case of the petitioner is that by virtue of various sale deeds, the petitioner became the absolute owner of the entire properties comprised in S.No. 156/1 situated at Kannivakkam Village, Kancheepuram District. After purchase, the petitioner effected subdivision as S.No. 156/1B, S.No. 156/1C, S.No. 156/1D, S.No. 156/1A2, S.No. 156/1A3, S.No. 156/1A4, S.No. 156/1A5, S.No. 156/1A9, S.No. 156/1A6, S.No. 156/1A7, S.No. 156/1A8 and S.No. 156/1A1 and formed a layout after getting permission from the competent authority. Thereafter, the individuals, who purchased vacant lands of 600 sq. ft each, applied for building permission and approval of building plan from the President of Perumattu Nallur Panchayat in No. 296/14 dated 15.10.2014 etc and likewise, more than 200 individuals secured building plan approval. According to the petitioner, more than 100 sale deeds were registered in the name of the purchasers before the 2nd respondent and the petitioner had also entered into a construction agreement to put up around 300 villas. The petitioner would state that he used to register the documents on different dates before the 2nd respondent and that the 2nd respondent has also registered the documents periodically. However, in respect of 13 documents, presented for registration, subsequently, though the petitioner paid the deficit stamp duty as directed by the 2nd respondent, the said documents were not registered, but kept pending, without even

assigning any reason in writing. Further, according to the petitioner, the 2nd respondent even refused to register the memorandum of deposit of title deeds. While so, the petitioner approached the 2nd respondent to know the reason for not registering the documents after payment of deficit stamp duty as well as charges for registration and the 2nd respondent orally directed the petitioner to give an undertaking that he has purchased the property from Mrs. S.S.R. Lakshmi and there is no dispute among the parties. The petitioner, by letter dated 27.08.2015, informed the 2nd respondent that the subject land has been sold to the petitioner on various dates through 12 registered sale deeds by the said SSR Lakshmi and that the petitioner is the legal owner of the property. Further, the petitioner stated that the said S.S.R. Lakshmi has not filed any civil case against them claiming the property or has obtained any court order against the petitioner relating to the said property. The said letter was followed by another communication dated 25.09.2015. However, the 2nd respondent refused to entertain the sale deeds placed for registration under the guise that his vendor has given some objection. Hence, the petitioner made a representation dated 09.10.2015 to the 1st respondent wherein he sought a direction to the 2nd respondent to register the document submitted by the petitioner. In spite of the same, the 2nd respondent refused to receive any documents including documents dated 16.10.2015 presented for registration.

3. According to the petitioner, the 2nd respondent, being a statutory authority, is under a legal obligation to discharge his duty as contemplated under the Act as well as rules. But, the 2nd respondent, has not only refused to register the documents, but also failed to assign any valid reason for doing so. Further, according to the petitioner, under Rule 55 of the Registration Act, the 2nd respondent has no jurisdiction to refuse to receive and register a document for other than the reasons mentioned in the said rule. Since the petitioner as well as the purchasers are put to severe hardship, on account of refusal to receive the documents as well as non-registration and retention of documents, the petitioner is before this Court by way of this writ petition.

4. When the writ petition is taken up for consideration, learned Additional Government Pleader, on instructions, would submit that one S.S.R. Lakshmi, the original owner of the property, has raised an objection with regard to the ownership of the lands in question and that is the reason why the 2nd respondent has refused to receive the documents for registration. Further, the learned Additional Government Pleader submitted that a criminal case is pending before District Crime

Branch, Kanchipuram, for offences under Sections 406 and 420 I.P.C. against the petitioner.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

6. In my considered opinion, the Registering Authority cannot refuse to register a document unless it is opposed to public policy or prohibited by a competent Civil Court and he is bound to act as contemplated under Rule 55 of the Registration Rules. The said Rule reads thus:

"55. It forms no part of a registering officer's duty to enquire into the validity of a document brought to him for registration or to attend to any written or verbal protest against the registration of a document based on the ground that the executing party had no right to execute the document; but he is bound to consider objections raised on any of the grounds stated below:-

- (a) that the parties appearing or about to appear before him are not the persons they profess to be;
- (b) that the document is forged;
- (c) that the persons appearing as a representative, assignor, agent has no right to appear in that capacity;
- (d) that the executing party is not really dead, as alleged by the party applying for registration; or
- (e) that the executing party is a minor or an idiot or a lunatic."

As per the above extracted Rule, the Registering Authority has to consider the objection raised, on the grounds mentioned above, before proceeding to register the document.

7. Hence, in the absence of any order from the competent Civil Court and in the light of Rule 55 of the aforesaid Rules, this Court is constrained to direct the 2nd respondent to receive the documents submitted by the petitioner, conduct an enquiry with regard to the objection raised, afford an opportunity of personal hearing to the petitioner as well as to the objector and

thereafter, pass appropriate orders, in regard thereto, within a period of six weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs. Connected M.P.s are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Inspector General of Registration,
O/o. The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate, Chennai - 600 028.
2. The Sub Registrar,
Sub Registrar Office,
Thiruporur,
Kancheepuram District.

+1cc to Mr.G.Ethirajulu, Advocate, S.R.No.7974
+1cc to the Government Pleader, S.R.No.8226

W.P. No. 35769 of 2015

ca(CO)
srg(23/02/2016)

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