

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.25654 of 2016

C.Ramakrishnan

... Petitioner

Vs.

The Sub Registrar
Avinashi
Tiruppur District.

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to register the Settlement Deed dated 1.7.2016 presented by the petitioner in respect of a vacant land measuring an extent of 2400 sq.ft. comprised in S.No.215/91 situated at Kanakkampalayam Village, Tiruppur Taluk and District, release the same forthwith.

For Petitioner : Mr.S.P.Sudalaiyandi
For Respondent : Mr.R.A.S.Senthilvel
Additional Government Pleader

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner claims to have purchased vacant land

admeasuring to an extent of 2400 sq.ft. comprised in S.No.215/91 situated at Kanakkampalayam Village, Tiruppur Taluk and District vide registered sale deed dated 07.02.2003 bearing document no.450 of 2003 registered on the file of the Sub Registrar, Avinashi and claims to be in possession.

3.According to the petitioner, one Ayesha Beevi has filed O.S.No.159 of 2007 on the file of the District Judge (Trainee), Additional District Munsif Court, Tiruppur praying to cancel the sale deed dated 30.12.2002, bearing document no.450 of 2003 as well as the registered sale deed dated 07.02.2003 and the said suit came to be dismissed for default on 28.08.2014 and no steps have been taken to restore the said suit. Thereafter, he took a decision to execute a Settlement Deed in favour of his wife and it was presented for registration before the respondent on 13.07.2016 and it was returned for the reason that it was exparte decree and the petitioner was also called upon to produce the documents relating to his title and aggrieved by the same, came forward to file this writ petition.

4.The learned counsel appearing for the petitioner would submit that neither Section 34 nor Section 35 of the Registration Act, 1908 contemplate such procedure by directing the petitioner to produce

earlier documents in title and also invited the attention of this Court to the decision of this Court reported in **2013 (1) CWC 704 (Kannammal Versus The Sub-Registrar and two others)**.

5.This Court also heard the submissions of Mr.R.A.S.Senthilvel, learned Additional Government Pleader who accepts notice on behalf of the respondent.

6.It is relevant to extract paragraph no.3 of the above stated judgment hereunder:

“3.The learned Counsel appearing for the Petitioner 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 and 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 & 3 are only the vendors of the Petitioner who had executed a Sale Deed in favour of the Petitioner which was presented for registration."

7.As rightly contended by the learned counsel appearing for the petitioner, statutory provisions namely, Sections 34 and 35 do not contemplate the production of earlier documents of title and it is also the function of the respondent to adjudicate on the title of the petitioner, as it falls within the exclusive domain of their competent Civil Court.

8.In the light of the above facts and circumstances coupled with the above stated decision, this Court permits the petitioner to represent the Settlement Deed before the respondent for registration,

within a period of one week from the date of receipt of a copy of this order and the respondent on receipt of the same, shall entertain the same, if the papers are otherwise in order and in the light of the observations made in this writ petition and shall pass appropriate orders, within a further period of two weeks thereafter, as to the registration of the said Settlement Deed and communicate the decision taken, to the petitioner.

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

17.08.2016

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Index: Yes/ No

Internet: Yes/ No

To

The Sub Registrar
Avinashi
Tiruppur District.

M.SATHYANARAYANAN,J.
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