

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 18.2.2016.

CORAM

THE HON'BLE MR.JUSTICE R.SUBBIAH

W.P.No.334 of 2016

B.Krishnappa

Petitioner

vs.

The Sub-Registrar
Hosur Krishnagiri District.

Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records of the respondent in Lr.No. 389 of 2015 dated 14.12.2015 and quash the same as illegal incompetent and ultravires and consequently direct the respondent to register the document sent in R.E.P.No.21 of 2015 in O.S.No.1 of 2015 on the file of the Subordinate Judge at Hosur.

For Petitioner : Mr.R.Jayaprakash

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

ORDER

The present writ petition has been filed seeking issuance of a writ of certiorarified mandamus calling for the records of the respondent in Lr.No. 389 of 2015 dated 14.12.2015 and quash the same as illegal incompetent and ultravires and consequently direct the respondent to register the document sent in R.E.P.No.21 of 2015 in O.S.No.1 of 2015 on the file of the Subordinate Judge at Hosur.

2. Heard Mr.R.Jayaprakash, learned counsel appearing for the petitioner and Mrs.P.Rajalakshmi, learned Government Advocate, who accepts notice on behalf of the respondent.

3. The case of the petitioner is that he entered into a sale agreement with Seenappa and Venkatesappa, the legal heirs of one Ramaiah, for purchase of a land to an extent of 50 cents in Survey No.288 Deveerahalli Village, Bagalur, Hosur Taluk, Krishnagiri District, for a total sale consideration of Rs.3,50,000/-, by paying a sum of Rs.50,000/-. According to the petitioner, the said Ramaiah purchased the said land vide Document No.2626 of 1951 dated 23.10.1951. Since the said

Seenappa and Venkatesappa have not come forward to execute the sale deed, the petitioner had filed a suit in O.S.No.1 of 2015 on the file of the Sub Court, Hosur seeking specific performance, which ended in ex parte decree dated 26.2.2015. Thereafter, the petitioner filed execution petition in R.E.P.No.21 of 2015. When the sale deed was presented by the Court for valuation, it was returned by the respondent stating that the subject land is a Government land. The grievance of the petitioner is that the action of the respondent is not proper in returning the document without calling for documents from the petitioner to establish that it is a private land. Hence, the present writ petition has been filed.

4. The respondent has filed a counter affidavit contending that no paimash number is found in the sale deed of the year 1951 and therefore, the vendors cannot claim right over the Government poramboke land. It is further contended that the petitioner has not produced copy of patta in the name of the vendors to claim that it is a private land of the vendors and therefore, sought for dismissal of the writ petition.

5. Though a larger relief is sought for in the writ petition, when the matter was taken up for consideration, the learned counsel for the petitioner submitted that it is suffice if a direction is issued to the respondent to conduct an enquiry and pass orders afresh and the petitioner is prepared to produce all the relevant documents which are in his possession.

6. In view of the submission of the learned counsel for the writ petitioner, the petitioner is directed to submit a representation to the respondent with the available relevant documents within a period of one week from the date of receipt of copy of this order and on receipt of the same, the respondent is directed to consider the same by affording an opportunity of personal hearing to the petitioner and pass appropriate orders within a period of twelve weeks thereafter. It is made clear that this court has not expressed any opinion on the merits of the case. It is for the respondent to decide the issue purely on merits and in accordance with law, not affected by this order.

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

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

ssk.

To

The Sub-Registrar
Hosur Krishnagiri District.

1 cc to M/s.R. Jayaprakash, Advocate, Sr. 10498
1 cc to Government Pleader, Sr. 10552

W.P.No.334 of 2016

RSK (CO)
kk 4/3



WEB COPY