

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.3730 of 2016

and

W.M.P.Nos.3112 & 3113 of 2016

1.R.P.Mohan

2.Mrs.Gunawathe Mokan

3.M.Anand Raj

... Petitioners

Vs.

1.The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome High Road,
Chennai-600 028.

2.The District Registrar,
Office of the District Registrar,
Krishnagiri Distirct,
Krishnagiri.

3.The Joint Sub-Registrar-I,
Krishnagiri,
Krishnagiri District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 26.06.2014 Ref.No.29449/01/2014 passed by the 1st respondent and to quash the same and consequently, to direct the respondents not to refuse registration of any document by the petitioners for availing financial facilities from Banks or any other financial institutions, or effecting transfer or alienation in respect of the petitioners' land in Survey No.1/2, 2/2, 3/1A1B, 16/5A, 16/5B, 16/6, 16/7A, 16/8A and 16/9A, in Akkalapuram Kothapettah Village in Krishnagiri Taluk and District.

For Petitioners : Mr.S.Thanka Sivan

For respondents : Mr.V.Jayaprakash Narayanan, Spl. GP.

ORDER

This writ petition has been filed by the petitioner praying for issuance of a writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 26.06.2014 Ref.No.29449/01/2014 passed by the 1st respondent and to quash the same and consequently, to direct the respondents not to refuse registration of any document by the petitioners for availing financial facilities from Banks or any other financial institutions, or effecting transfer or alienation in respect of the petitioners' land in Survey No.1/2, 2/2, 3/1A1B, 16/5A, 16/5B, 16/6, 16/7A, 16/8A and 16/9A, in Akkalapuram Kothapettah Village in Krishnagiri Taluk and District.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows:-

2-1.The 2nd petitioner is the wife and 3rd petitioner is the son of the 1st petitioner respectively. According to the petitioners, all the patta lands, buildings, structures and machineries comprised in the land measuring about Ac.14-40 cents in Survey Nos.1/2, 2/2, 3/1A1B, 3/1A2, 16/5A, 16/5B, 16/6, 16/7A, 16/8A and 16/9A in Akkalapuram Kothapettah Village in Krishnagiri Taluk and District are owned by the petitioners. Out of the said lands, the land measuring to an extent of Ac.4-93 cents is owned by the 1st petitioner, particulars of which are as follows_

S.No.	Survey No.	Extent
1.	2/2	Ac.03-10 cents
2.	1/2	Ac.01-66 cents
3.	16/5A	Ac.0-17 cents
	Total	Ac.04-93 cents

Further, the following lands are owned by the 2nd petitioner-Gunawathee

S.No.	Survey No.	Extent
1.	3/1A1B	Ac.0-89 cents
2.	3/1A2	Ac.2-46 cents
3.	16/5B	Ac.2-22 cents
4.	16/6	Ac.1-19 cents
5.	16/9A	Ac.0-18 cents
	Total	Ac.06-94 cents

As such, the 2nd petitioner is the absolute owner of Ac.6-94 cents. Apart from the above, the 2nd petitioner is the owner of land measuring Ac.1-73 cents comprised in S.No.16/7A. The 3rd petitioner is the owner of 80 cents in S.No.16/8A in Kothapettah

Village. All the above said lands are the petitioners' absolute properties. Patta and other revenue records are standing in the names of the petitioners.

2-2. Apart from the above lands, the petitioners are owning various properties and their family is running an industry in Krishnagiri District viz., Manam Fruit Products Private Limited. The said industry is having highly sophisticated and modern machineries for fruits processing and pulp production etc. The said company of the petitioners has been availing financial facilities for running its business from their Bankers and presently their banker is Axis Bank Ltd., Hosur Branch. The above said properties have been given as security to their bankers even prior to the year 2005 and their industry is being run by availing financial facilities from their banker. About 300 employees are employed in their factory directly and their industry would provide employment for more than 500 persons during the season.

2-3. It is further stated by the petitioners that during the year 2005, the Government of Tamil Nadu issued notification under Section 4(1) of the Land Acquisition Act, 1894, by invoking urgency clause under Section 17, seeking to acquire the aforesaid lands of the petitioners for the purpose of construction of Master Plan Complex (Collectorate, Police Office, RT0 etc.) of Krishnagiri District. Immediately thereafter, the petitioners filed writ petitions in W.P.Nos.22621 to 22623 of 2005 before this Court, challenging the acquisition proceedings, on various grounds, including the ground that the State Government is having hundreds of acres of government poramboke land in the said proposed site itself and there is no requirement for acquiring the lands of the petitioners. In the said writ petitions, this Court has also granted an order of interim stay of all acquisition proceedings with regard to the above said properties of the petitioners. The interim stay order passed by this Court is still in force. Even after initiation of acquisition proceedings, the petitioners are continuing to avail financial facilities on the security of their lands and they have executed various Memorandum of Deposit of Title Deeds in favour of their bankers for extension of financial facilities (OD) as and when required. In the meantime, the Land Acquisition Act, 1894 has got repealed by virtue of introduction of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013). By virtue of Section 24(2) of the said Act, all acquisition proceedings initiated prior to five years would get lapsed, provided the authorities have either not paid compensation or taken possession of the lands. Insofar as the petitioners' lands are concerned, the authorities have neither paid any compensation nor taken possession of their lands. Moreover, under Section 25

of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the State Government is duty bound to pass an award within one year from the date of commencement of the Central Act in the cases where no award has been passed in the acquisition proceedings and if the same has not been complied with, such land acquisition proceedings will also be deemed to have been lapsed. Thus, the lands of the petitioners are now free from the acquisition proceedings in view of the introduction of Central Act 30 of 2013.

2-4. While so, recently the petitioners approached the 3rd respondent for registering supplementary memorandum of agreement for extension of financial facilities and during such time, the 3rd respondent refused to register the said document stating various untenable reasons. Therefore, the petitioners approached the 1st respondent. The 1st respondent, after examination of the documents, passed the impugned order dated 26.06.2014 directing the 2nd respondent to undertake registration of documents for the lands except those lands with regard to which the land acquisition proceedings have been initiated. The impugned order passed by the 1st respondent virtually restrains the registering authorities from registering the Memorandum of Deposit of Title Deeds sought to be registered by the petitioners, for the simple reason that the acquisition proceedings, which have already lapsed by virtue of the Central Act 30 of 2013, are kept pending. Hence, the petitioners have come forward with the present writ petition, challenging the order passed by the 1st respondent dated 26.06.2014 before this Court.

3. When the matter was taken up for consideration, the learned counsel appearing for the petitioners, attacking the impugned order passed by the 1st respondent, submitted that the action of the 1st respondent and his subordinate viz., respondents 2 & 3, in refusing to register the Memorandum of Deposit of Title Deeds sought to be registered in respect of the petitioners' land, citing the reasons of land acquisition proceedings which have been stayed by this Court, is not legally sustained. In fact, the respondents have been accepting and registering similar documents of the petitioners even upto the year 2013. Therefore, the action of the respondents in refusing to register the Memorandum of Deposit of Title Deeds sought to be registered in respect of the petitioners' land, is untenable, as per law. Thus, the learned counsel for the petitioners sought for quashing of the impugned order and consequential direction to the respondents to register the documents.

4.The learned Special Government Pleader submitted that apart from the land acquisition proceedings, there is objection from the third parties for registration of the documents, which are sought to be registered by the petitioners; that is why the registration of the document was refused by the respondents.

5.But, the learned counsel for the petitioners denies that there is objection from the third party to register the document.

6.Heard both sides and perused the materials available on record.

7.Irrespective of the submissions made on either side, this Court is of the opinion that the respondents can refuse to register the document only on the grounds as enumerated under Section 55 of the Registration Act and not on other grounds. Even if there is any objection from the third party to register the document, as per Rule 55 of the Registration Act, the registering authority is bound to consider the objection only on the ground which is stated in the said Rule. Therefore, the authorities concerned are bound to act only in accordance with the Act and the Rules framed thereunder. Hence, this Court is of the opinion, that by setting aside the impugned order, a direction could be given to the respondents to register the subject documents of the petitioners.

8.Accordingly, the impugned order is set aside and the respondents are directed to register the Memorandum of Deposit of Title Deeds sought to be registered by the petitioners, in accordance with law. It is made clear that even if there is any objection by the third party for registering the subject documents of the petitioners herein in respect of the subject lands, at the relevant point of time, the 2nd respondent by conducting enquiry, can pass appropriate orders, with regard to the registration of the subject documents.

9.With the above terms, the writ petition is disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome High Road,
Chennai-600 028.

2.The District Registrar,
Office of the District Registrar,
Krishnagiri Distirct,
Krishnagiri.

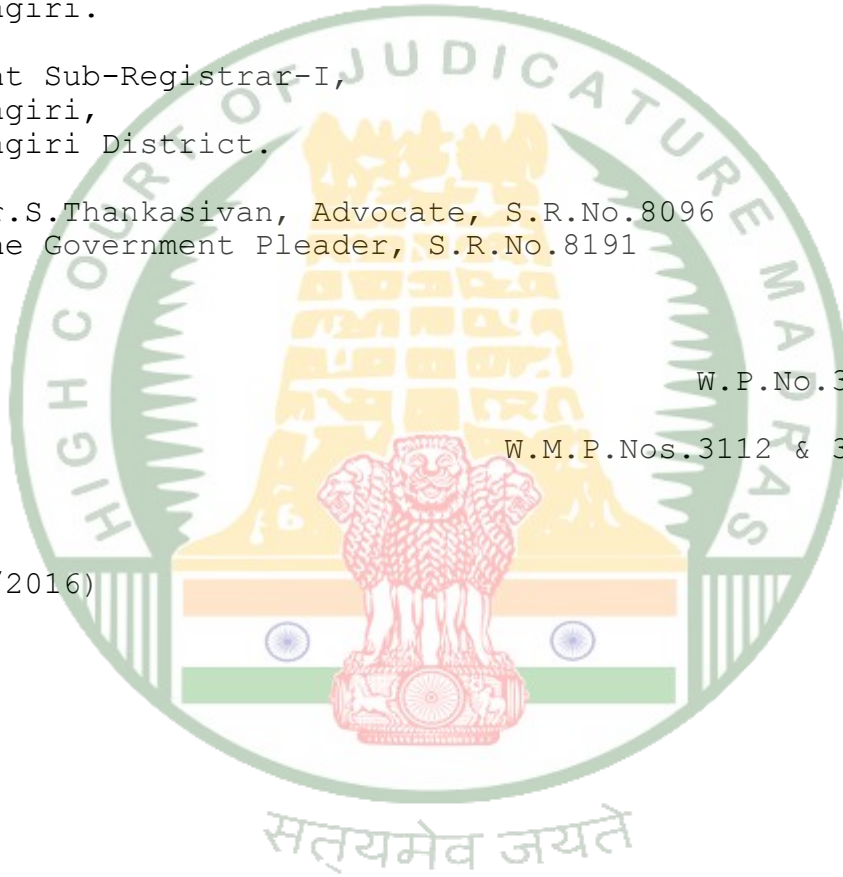
3.The Joint Sub-Registrar-I,
Krishnagiri,
Krishnagiri District.

+1cc to Mr.S.Thankasivan, Advocate, S.R.No.8096
+1cc to the Government Pleader, S.R.No.8191

W.P.No.3730 of 2016
and

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tej (CO)
srg (17/02/2016)



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