IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.9145 of 2016
and
W.M.P.Nos.8145 & 8146 of 2016

M/s.Tamilnadu Distillery Industrial
Alcohol Private Limited
having its registered office at;
17/1, (Old No.9), Bazullah Road,
T.Nagar, Chennai-600 017. ... Petitioner

Vs.

1. The District Registrar,
Department of Registration,
Krishnagiri District,
Tamil nadu-635 001.

2. The Sub-Registrar,
Department of Registration,
Hosur, Krishnagiri,
Tamil Nadu-635 109.

3. The State of Tamil Nadu,
rep. by The Inspector of Police,
Anti Land Grabbing Cell,
Krishanagiri.

4. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent comprised in Na.Ka.No.2598/U/2005 dated 28.05.2015 and to quash the same as being arbitrary, illegal and without application of mind and consequently, to direct the 1st, 2nd and 4th respondents to consider the 3rd respondent's request/representation dated May, 2015 and the petitioner's representation given during the month of April, 2015 to the 3rd respondent.

For Petitioner : Mr.Sathish Parasaran

For respondents : Mr.S.Navaneethan,
Additional Government Pleader

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent relating to his proceedings in Na.Ka.No.2598/U/2005 dated 28.05.2015 and to quash the same as being arbitrary and illegal, and consequently, to direct the respondents 1, 2 & 4 to consider the 3rd respondent's request/representation given during May, 2015 and the petitioner's representation given during the month of April, 2015 to the 3rd respondent.

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

2-1.The petitioner company viz., M/s.Tamilnadu Distillery Industrial Alcohol Private Limited was incorporated on 28.07.1975 under the provisions of The Companies Act, 1956 with the object of carrying on the business of manufacturing industrial alcohol, denatured spirit, alcohol chemicals and other alcoholic preparations and to carry on the business of licensed wines and spirit merchants and other allied business.

2-2.During the course of its business, the petitioner company, apart from various other properties, had acquired a properties being vacant land of an aggregate extent of 8.17 acres situated in Lingapuam Village in Bagalur Limits, Hosur Taluk, Krishnagiri District falling within the registration limits of the respondents 1 & 2, as detailed hereunder_

Survey Nos.	Extent		Sale Deed		Regd. At the office of
	Acre/s	Cents	Date	Doc.No.	Sub-Registrar, Hosur
25/2	0	54	19.06.1982	2220/1982	
29/2	1	98			
31/1	0	14			
Total extent	2	66			

Survey Nos.	Extent		Sale Deed		Regd. At the office of
	Acre/s	Cents	Date	Doc.No.	Sub-Registrar, Hosur
25/1	3	46	11.10.1982	3914/1982	
28/2	1	33			
31/2	0	27			
32/4	0	45	11.10.1982		

Survey Nos.	Extent		Sale Deed		Regd. At the office of
Total extent	2	66			

But, particulars regarding the possession of the said properties had unfortunately not been brought into the records of the petitioner- company. The error occurred due to the fact that for a long period of time, no business was conducted by the petitioner-company and the aforesaid deeds were misplaced.

2-3.Owing to the excise and licensing policy of the State Government, the petitioner-Company was unable to carry on any business for long period of time. When attempts were made to dispose of the shares of the petitioner-company, there were no buyers. For almost three decades, there was no business being conducted by the petitioner-Company. Due to lack of any operation and continued obligations of filing necessary statutory returns, the petitioner received advise from the statutory auditors that the petitioner company could apply under Simplified Exit Scheme notified under Section 560 of the Companies Act, 1956 which permitted defunct companies to avail of the provisions of the scheme and get their names struck off from the registers.

2-4.Therefore, the petitioner-Company decided to take advantage of such scheme. Considering the fact that the original lands that were provided on lease by the Government had been resumed and that the plant and machinery had also become redundant, an application was filed by the petitioner in the year 2003 seeking to strike off the petitioner-Company from the register of the Registrar of Companies, Chennai. The said application was preferred after complying with all the terms of the scheme, including furnishing of necessary board resolution, auditor's report, directors' report etc.
Consequent upon the aforesaid application, a communication dated 29.01.2004 bearing Ref.No.6949/SES/2003 issued by the Registrar of Companies, Chennai was received by the petitioner-Company wherein it was pointed out by the Register of Companies, Chennai that in terms of the balance sheet as on 31.3.2002, the petitioner-Company had obtained unsecured loan to the extent of Rs.1.51 crores from M/s.Raghava Enterprises Private Limited and also had assets. Therefore, the 1st respondent called upon the petitioner-Company to obtain 'No Objection Certificate' from the said M/s.Raghava Enterprises Private Limited and also to furnish information as to how the assets were disposed of. In response thereto, necessary clarifications, along with requisite NOC from M/s.Raghava Enterprises Private Limited, were provided by the petitioner-Company, vide its letter dated 18.02.2004, which was received by the Registrar of Companies, Chennai on 23.02.2004.

Consequent thereto, the name of the petitioner-Company was struck off from the Register.

2-5.While the petitioner was verifying certain land documents that had been kept in a locker pertaining to another company, the petitioner came across certain registered documents viz., Sale Deed dated 19.06.1982 registered as Doc.No.2220 of 1982 on the file of the 2nd respondent and Sale Deed dated 11.10.1982 registered as Doc.No.3914 of 1982 on the file of the 2nd respondent. Only at that time, the petitioner recollected that the said lands had been procured in the name of and for the benefit of the petitioner-company and it is only due to the reason of inadvertence, the said lands had been omitted to be accounted for at the time of making an application before the Registrar of Companies, Chennai. The reason for such inadvertence was that the petitioner company itself, which had been established for the purpose of commencing a particular business, could not do so due to the State Government's policy and for more than 2 ½ decades, there had practically been no operations in the petitioner-Company and there were no staff on the permanent roll of the petitioner-Company who would be aware of any of the facts. The failure to account for the said land documents was only for the bonafide reasons.

2-6.In view of the above, the Managing Director of the petitioner-Company viz., M.Srinivasulu Reddy, S/o.Late M.Raghava Reddy filed C.P.No.149 of 2014 on the file of this Court under Section 560(6) of the Companies Act, 1956 for restoration of the petitioner-Company and this Court allowed the said petition vide order dated 19.06.2014.

2-7.Thereafter, the petitioner proceeded to dispose of the subject property and it is only then, the petitioner came to know that the subject properties were encumbered by bogus documents. The petitioner on verification came to know that a number of bogus sale deeds, Power of Attorneys and Gift Deeds were registered on the file of the 2nd respondent relating to the subject properties, while none of the parties to the said transactions had any title nor any right whatsoever over the subject properties. Later, the petitioner after getting a copy of all the above referred bogus sale deeds and Power of Attorneys from the 2nd respondent, came to know about various documents being registered by persons who had no title over the subject property whatsoever.

2-8.On further verification, the petitioner came to know that one Mr.Dinesh Prasad had filed a complaint with the 3rd respondent against his vendor and predecessors in title stating that in spite of the said Mr.Dinesh Prasad requesting his vendor to hand over possession of the subject property, the said vendor kept postponing the same on one pretext or the other and finally threatened Mr.Dinesh Prasad with dire consequences to life, if he claims possession of the subject property. That it is only then the said Mr.Dinesh Prasad applied and obtained a copy of the encumbrance certificate pertaining to the subject property and found that he was cheated by his vendor who had no valid title nor any right over the subject properties, but it is the petitioner company which had proper title over the subject property and was in possession. In view of the aforesaid complaint lodged by the said Dinesh Prasad, the 3rd respondent after preliminary investigation and after satisfying himself, registered a case in Crime No.326/ALG/KGI/2014, dated 28.10.2014, under Sections 420, 465, 467 and 506(i) IPC against the aforesaid accused.

2-9.Later, the 3rd respondent on conducting a thorough investigation found that various bogus Sale Deeds and bogus General Powers of Attorney Deeds had been registered on the file of the 2nd respondent by the persons who do not have any title or right over the subject properties. The petitioner made a representation to the 3rd respondent requesting to take appropriate action against the accused persons and to cancel/delete all the bogus deeds registered on the file of the 2nd respondent. The 3rd respondent vide his letter ALGSC-Cr.No.23/2013, dated 25.05.2015, requested the 1st respondent to cancel/delete the entry pertaining to bogus documents on the file of the 2nd respondent.

2-10.The petitioner made a representation during April, 2015 to the 3rd respondent requesting to take appropriate action in accordance with law to ensure that there are no fraudulent entries in the 'A' register pertaining to properties owned by the petitioner- company in Survey Nos.25/2, 29/2 and 31/1 located within the registration limits of the respondents 1 & 2. But, the 2nd respondent has arbitrarily refused to initiate any action or to call for an enquiry. The Inspector General of Registration has issued a Circular No.67, dated 03.11.2011, which empowers the District Registrar to enquire and investigate into the fraudulent transaction including forged document. But, the 1st respondent has also refused to exercise his jurisdiction as mandated by the Registration Act, 1908. Hence, the petitioner has come forward with the present writ petition before this Court.

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

4.Considering the facts and circumstances of the case, this Court passes the following order:-

The petitioner is directed to give a fresh representation to the 1st respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the 1st respondent is directed to consider the same, in the light of the Circular No.67, dated 03.11.2011, issued by the Inspector General of Registration, and pass appropriate orders, after affording opportunity of personal hearing to the petitioner as well as to all other necessary parties, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar(CCC)

//True Copy//

ssv

Sub Assistant Registrar

To

1. The District Registrar,
   Department of Registration,
   Krishnagiri District,
   Tamil nadu-635 001.

2. The Sub-Registrar,
   Department of Registration,
   Hosur, Krishnagiri,
   Tamil Nadu-635 109.

3. The Inspector of Police,
   State of Tamil Nadu,
   Anti Land Grabbing Cell, Krishanagiri.

4. The Inspector General of Registration,
   No.100, Santhome High Road,
   Chennai-600 028.

+1cc to the Government Pleader, S.R.No.16051
+ 1 cc to Mr.Sathish Parasaran, Advocate Sr 3712 (15/4/16)

W.P.No.9145 of 2016 and
W.M.P.Nos.8145 & 8146 of 2016

EV(CO)
CA(07/04/2016)