



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :09.11.2016

CORAM

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THE HONOURABLE **MR. JUSTICE V. BHARATHIDASAN**

W.P(MD).No.15634 of 2016

Mangaiarkarasi

... Petitioner

Vs.

1.The Sub Registrar,
Oddanchatram, Dindigul District.

2.The Special Officer,
Tamil Nadu State Boomidhan Board,
Chennai-5.

... Respondents

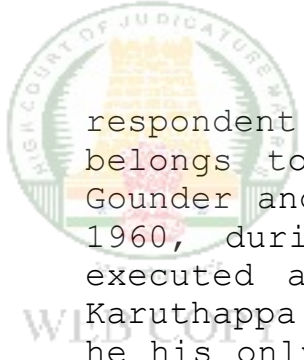
This Writ Petition has been filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records pertaining to impugned order of the 1st respondent in his proceedings in A.Thi.Mu.No.477/2016, dated 08.08.2016 and quash the same as illegal, consequently direct the 1st respondent to accept and register the sale deed presented by the petitioner, dated 08.08.2016 for registration.

For petitioner : Mr.D.Venkatesh
For respondents : Mr.R.Anandha raj
Government Advocate

ORDER

Challenging the order passed by the first respondent, the Sub Registrar, Oddanchatram, Dindigul District, refusing to register the petitioners's sale deed on the ground that the land in question belongs to Boomidhan Board and also insisting her to get a no objection certificate from the Boomidhan Board, the petitioner is before this Court.

2. According to the petitioner, she purchased some properties situated in Survey Nos.210/1, 209A/A3, 209A/A2 and 209B/2A, at Arasappapillaipatti Village, Oddanchatram Taluk from one Rajendran and presented the sale deed for Registration before the Sub Registrar, the first respondent herein. However, the first respondent, refused to register the sale deed on the ground that the properties belongs to Boomidhan Board and insisted the petitioner to get a no objection certificate from the second



respondent for registration. According to the petitioner, the land belongs to the Hindu Joint Family consisting of one Karuthappa Gounder and his son Vadivel Gounder. Both of them died in the year 1960, during the life time of the said Karuthappa Gounder, he executed a gift deed in favour of the second respondent. Since Karuthappa Gounder has no exclusive right over the properties and he is only acting as a Kartha of the Hindu Joint Family, the wife and daughter of the said Vadivel Gounder namely Kamalam and Majula Gandhi filed a suit in O.S.No.902 of 1987 before the District Munsif Court, Palani against the Boomidhan Board challenging the gift deed. The suit was dismissed by the Trial Court, against which, they filed an appeal in A.S.No.101 of 1996 before the Sub Court, Palani. The Lower Appellate Court having fully considered the evidence, held that the above said Karuthappa Gounder has no right to execute the gift deed and the gift deed executed by the Karuthappa Gounder is not valid and it is not binding upon the plaintiffs. Against the above judgment and decree, the Boomidhan Board filed a second appeal before this Court in S.A.No. 1716 of 2003 and same was dismissed for default on 05.07.2007. So far, the second appeal was not restored to file and the judgment and decree of the lower appellate court has become final. In the above stated position, it is clear that the Boomidhan Board has no right over the property. In such circumstances, the first respondent cannot refuse to register the document on the ground that it belongs to Boomidhan Board. In the very same area, the first respondent registered the document No.675 of 2014, but when the petitioner submit the document to register, the first respondent refused to register the same with *malafide* intention. Hence, the petitioner prays to set aside the order of the first respondent and to allow this petition.

3. The first respondent filed a counter affidavit stating that sale deed, dated 08.08.2016, was presented on 08.08.2016 for registering the properties situated at S.F.No.210/1, 209A/A3, 209A/A2 and 209B/2A at Arasappapillaipatti Village, Oddanchathiram Taluk. While the same survey numbers were verified with the register for 'guideline value' and it was found that the guideline values for those lands has been nullified and virtually it has been denoted as "Zero" with an endorsement "Boomidhan Land". Since the lands has been under the 2nd respondent purview, the second respondent can only convey the same to any other or if they had any more objection to convey to any other third parties, the land could be conveyed to third parties on their 'No Objection Certificates'. The first respondent also admitted the registration of earlier document in the year 2014, where there was no mentioning about the possession of land by the 2nd respondent and the guideline was also not nullified. But, in the present case, the Inspector General of Registration, Chennai, has nullified the guideline value for the lands in question. Therefore, he prays for dismissal of the writ petition.



4. I have heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

5. According to the learned counsel for the petitioner, already the judgment and decree passed in A.S.No.101 of 1996, by the learned Sub Judge, Palani, vide judgment dated 26.09.1995 has become final, whereupon it was held that the gift deed executed by Karuthappa Gounder is not valid and is not binding upon the plaintiffs in the suit. The second appeal filed by the Boomidhan Board also dismissed for default. So far the Boomidhan Board has not taken any steps to restore the same. In the above circumstances, the gift deed stated to have executed by the Karuthappa Gounder has become invalid and based on the above gift deed, the Boomidhan Board cannot claim any right over the property. In the said circumstances, as on today the Boomidhan Board is not the owner of the property and no objection certificate is not required from the second respondent as insisted by the first respondent. Therefore, the impugned order passed by the first respondent is not sustainable and the same is liable to set aside and accordingly set aside. The first respondent is directed to register the document of the petitioner after obtaining necessary stamp duty for the same, if it is otherwise in order. The writ petition is allowed with the above direction. No costs.

Sd/-

Assistant Registrar (Writs)

/True copy/

Sub Assistant Registrar

To

1.The Sub Registrar,
Oddanchatram, Dindigul District.

2.The Special Officer,
Tamil Nadu State Boomidhan Board,
Chennai-5.

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No.67482

+1 CC to Mr.D.VENKATESH, Advocate, SR No.68061

W.P (MD) .No.15634 of 2016
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jikr

SH/SKS-RR:24.11.2016:2P/5C