



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 30.08.2016

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THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P(MD)No.16263 of 2016

O.Jeevan Prakash

... Petitioner

Vs.

1. The District Registrar (Document Registration)
Pattukkottai,
Thanjavur District.

2. The Sub-Registrar (Document Registration),
Peravurani,
Thanjavur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd Respondent to register the Petitioner's document, dated 14.07.2016 kept as a pending in document No.P201600016 and release the same in compliance with the Registration Act, 1908.

For Petitioner : Mr.K.Guhan
For Respondents : Mr.K.Mahesh Raja
Govt.Advocate

ORDER

Heard both sides.

2.By consent, the main Writ Petition itself is taken up for final disposal.

3. No counter is filed on behalf of the Respondents.

4.The main grievance of the Petitioner is that he had applied with all requisite legal formalities like purchasing of stamp papers and payment of stamp duty etc. As a matter of fact, he had requested the Second Respondent / Sub Registrar (Document Registration) Peravurani, Thanjavur District, to register the Sale Deed and release the same. However, the Second Respondent, without any authority, is not registering the document, after accepting the registration fees. (paid through Challan, dated 14.07.2016) and



keeping the document, as pending one in Ref.No.P201600016.

5.The primordial stand taken on behalf of the Petitioner is that the Second Respondent / Sub Registrar (Document Registration), Peravurani, Thanjavur District, is duty bound to register the document soon after receipt of registration charges in compliance with Sections 34, 35 and 58 to 61 of Registration Act, 1908. In this connection, the plea of the Petitioner is that under the Registration Act, 1908, the Registering Officer is duty bound to register the document, after identifying the party to the document upon verification of the execution of the document and also duty bound to return the registered document under Section 61(2) of the Act. Furthermore, the Petitioner had purchased the property, measuring an extent of 0.1.22__Acre, through the Sale Deed, 14.07.2016, from his vendor one Subbian. Indeed, the said Subbian, had purchased the said property through two Sale Deeds, bearing Document Nos.461/2011 and 916/2011, registered in the Second Respondent's Office. Since the Second Respondent is keeping the document in question, as a pending one, the Petitioner has filed the present Writ Petition before this Court.

6. It is to be noted that keeping a document pending without registering the same, undoubtedly, deprives a Citizen / Petitioner of his valuable Right to Property and in fact, it is represented on behalf of the Petitioner that the scope of enquiry envisaged under the Registration Act, 1908, as regards the acceptance of documents for registration, is a limited one.

7. At this juncture, this Court points out a decision of this Court in **R.G.Rathinam v. Sub-Registrar, Office of the Sub Registrar, Velipattinam, Ramanathapuram Taluk and District and Another** reported in (2009 (6) MLJ 844), at Special Page 845, whereby and where-under, it is observed as follows:-

"When the vendors admitted the execution, it is the duty of the Sub Registrar to receive the documents and register the same, if proper stamp duty is paid and the property is within his jurisdiction and the Sub Registrar is not expected to conduct roving enquiry regarding the title and ownership of the property who executed the document."

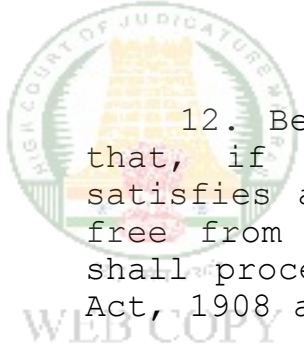
8. Undoubtedly, as per the ingredients of Article 300(A) of the Constitution of India, Right of a Citizen to own a property and to retain it is well protected and such a Right, cannot be deprived by any one, except by an Authority of Law, in the considered opinion of this Court. Furthermore, a document for which registration is permissible under the Registration Act, 1908, has to be registered by the concerned Authority and the said Authority cannot wriggle out of the situation that he is in, in this regard, as opined by this Court.



9. Moreover, this Court aptly points out that it is for the registering Authority to exhibit that the registration of a document in question would be contrary to public policy and would be in negation of the relevant provisions of Law application to the case. In the absence of any violation / deviation of any Rule / Regulation / Law etc., by the Petitioner, the concerned Authority, in the eye of Law, cannot refuse to register the document, which is produced / filed before him.

10. Be that as it may, on a careful consideration of the entire conspectus of the attendant facts and circumstances of the present case in an encircling fashion, this Court comes to an inevitable conclusion that the Second Respondent / Sub Registrar (Document Registration) Peravurani, Thanjavur District, by no stretch of imagination can keep the document, bearing No.P201600016, pending on his file, without any rhyme or reasons. Viewed in that perspective, this Court, without traversing upon the merits of the subject matter in issue, at this stage, simpliciter, directs the Second Respondent / Sub Registrar (Document Registration), Peravurani, Thanjavur District, to immediately take up the pending Document in Ref.No.P.201600016, within a period of one week, from the date of receipt of a copy of this order. Thereafter, the Second Respondent / Sub Registrar (Document Registration), Peravurani, Thanjavur District, is to pass a reasoned speaking order, on merits and in accordance with Law, in the subject matter in issue viz., pending Document No.P201600016, within a period of three weeks, (of course after providing necessary opportunity to the Petitioner and others concerned, by adhering to the principles of natural justice and, if situation so warrants, Notice can be issued to the concerned, strictly in terms of Law). The Second Respondent is to pass a reasoned speaking order with an open, dispassionate and free mind within the time, as stated supra.

11. The Petitioner is directed to lend his helping and an assistance to the Second Respondent so as to enable the latter to do the needful in his favour, within the time adumbrated by this Court. In case, the Second Respondent / Sub Registrar (Document Registration), Peravurani, Thanjavur District, comes to a consequent conclusion to the effect that the Petitioner is to comply with certain requirements of Law, then, the Second Respondent, without any further loss of time or precipitating the matter any further, is directed to give a suitable reply to the Petitioner, in writing, pointing out the necessary deficiencies or requirements to be complied with by him, by issuance of any Memo or Notice to the Petitioner. Soon after receipt of the said Communication / Memo / Notice from the Second Respondent, the Petitioner shall look into the same and take further action, as it deems fit and proper, based on the facts and circumstances of the present case, which float on the surface.



12. Before parting with the case, it is abundantly made clear that, if the Petitioner's pending Document in Ref.No.P201600016 satisfies all the requirements of Law and, if the said Document is free from any flaw for registration, then, the Second Respondent shall proceed further, in terms of ingredients of the Registration Act, 1908 and the Rules made thereunder.

13. With the aforesaid observation(s) and direction(s), the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1. The District Registrar (Document Registration)
Pattukkottai,
Thanjavur District.
2. The Sub-Registrar (Document Registration),
Peravurani,
Thanjavur District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 49138

MPK

TE/PV/SAR-III : 08/09/2016 : 4P/4C

W.P (MD) No.16263 of 2016
30.08.2016