



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2016

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P (MD) Nos.23977 and 23978 of 2016

and

W.M.P (MD) Nos.17295 and 17296 of 2016

Selvaraj .. Petitioner in W.P(MD)No.23977 of 2016

V.Gopal .. Petitioner in W.P(MD)No.23978 of 2016

vs.

1.The Revenue Divisional Officer,
Kovilpatti Division,
Thoothukudi District.

2.The Tahsildar,
Ottapidaram Taluk,
Thoothukudi District.

3.The District Registrar,
Thoothukudi District,
Thoothukudi District.

4.The Sub-Registrar,
Ottapidaram,
Thoothukudi District.

... Respondents in both petitions

PRAYER in W.P(MD)No.23977 of 2016 : Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Certiorarified Mandamus calling for records pursuant to the impugned order of the 4th respondent 13.10.2016 in his proceedings bearing A.Thi.Mu.No.192/2016 and quash the same and consequentially direct the respondents herein to register sale deed executed for the petitioner dated 07.09.2016 in respect of land in S.No.517/3 Panchalagkurichi Village, Ottapidaram Taluk, Thoothukudi District.

PRAYER in W.P(MD)No.23978 of 2016: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Certiorarified Mandamus calling for records pursuant to the impugned order of the 4th respondent 13.10.2016 in his proceedings bearing A.Thi.Mu.No.191/2016 and quash the same and consequently direct the respondents herein to register sale deed executed for the petitioner dated 07.09.2016 in respect of land in S.No.517/2 Panchalagkurichi Village, Ottapidaram Taluk, Thoothukudi District.



For Petitioner
in both WPs

: Mr.Lakshmi Gopinathan for
M/s.Polax Legal Solutions

For Respondents
in both WPs

: Mr.T.S.Mohammed Mohideen
Additional Government Pleader

WEB COPY

COMMON ORDER

Both these writ petitions are filed challenging the orders of the fourth respondent, dated 13.10.2016, returning the sale deeds for the purpose of getting 'No Objection Certificate' from the Revenue Divisional Officer, Kovilpatti.

2.Heard the learned counsel appearing for the petitioners and the learned Additional Government Pleader appearing for the respondents.

3.It is submitted by the learned counsel for the petitioners that the fourth respondent cannot seek for 'No Objection Certificate' from the Revenue Divisional Officer as such requirement was found to be wrong by this Court in an order made in W.P(MD) No.17060 of 2015, dated 16.10.2015. Therefore, he submitted that similar order can be passed in these matters also.

4.On the other hand, the learned Additional Government Pleader invited this Court's attention to the assignment order issued in favour of the petitioners and others stipulating a specific condition that no part of the land assigned can be sold. Therefore, he submitted that when the petitioners have no right to sell the property, the question of considering registration of such sale does not arise.

5.Perusal of the order passed by the Government in Government Memo 19600/FR IIII/79.21 dated 09.01.78 assigning the lands to the petitioners and others would show that there is a total ban on the assignees to sell the lands so assigned to them and if any such sale is made, the same is stated to be invalid with further direction that the said lands shall revert back to the Forest Department. When such being the condition laid in the assignment order, unless and until the petitioners succeed in challenging the said condition, the question of considering their request for registering the sale does not arise.

6.No doubt in the above decisions relied on by the learned counsel for the petitioners, this Court has observed that no such requirement of obtaining 'No Objection Certificate' from the authority arose. But perusal of the facts of the said case would show that vendor of the petitioner therein was a third party. On the other hand, the facts of the present case reveals that the lands were assigned to the petitioners by the Government with the said condition as stated supra. Thus, I find that the above said decision is not applicable to the present case, since it is



factually distinguishable. Thus, I find that the impugned orders passed by the fourth respondent have to be sustained for the present till the petitioners succeed in challenging the said condition imposed in the said assignment order.

7. Considering all these aspects these writ petitions are dismissed, however, with liberty to the petitioners to challenge the ban imposed against such sale in a manner known to law. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (Crl side)

/True Copy/

Sub Assistant Registrar/-

To,

1. The Revenue Divisional Officer,
Kovilpatti Division,
Thoothukudi District.

2. The Tahsildar,
Ottapidaram Taluk,
Thoothukudi District.

3. The District Registrar,
Thoothukudi District,
Thoothukudi District.

4. The Sub-Registrar,
Ottapidaram,
Thoothukudi District.

+1 cc to M/s. Polax Legal Solutions, Advocate in SR.No.81698

+1 cc to M/s. Special Government Pleader in SR.No.81932,81923,81925

skn

TTN/SS2-KSM/11.01.2017 : 3P-7C

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and

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