



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2016

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

WEB COPY

Writ Petition (MD) No.18132 of 2013andM.P(MD)No.1 of 2013

A.Jeyaraman

... Petitioner

Vs.

1.The Sub Registrar,
Sub Registrar Office,
Registration Department,
Aundipatti, Theni District.

2.The Executive Officer,
Arulmigu Meenakshi Sundareshwarar Temple,
Aundipatti Taluk, Theni District. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the Impugned Order passed by the 1st respondent in his Proceedings No. Nil dated 28.10.2013 and quash the same as illegal and consequentially to direct the 1st respondent to register the sale deed dated 28.10.2013 presented by the petitioner in respect of the property comprised in Survey No.745 Plot No.23 Aundipatti Village Periyakulam Taluk Theni District within the period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkateshkumar for
M/s.Ajmal Associates

For 1st Respondent : Mr.M.Alagadevan,
Special Government Pleader.

For 2nd Respondent : Mr.M.Karuppasamyandian

ORDER

When the petitioner had presented a sale deed before the first respondent on 28.10.2013 for the purpose of registration, the same was rejected by the impugned order dated 28.10.2013 on the ground that the second respondent had raised objections with regard to the registration of the sale deed. Challenging the same, the present writ petition has been filed.

2.According to the petitioner, the first respondent is not bound by the objections raised by the second respondent and that the first respondent's conduct in insisting on the petitioner to produce no objection certificate from the second respondent is not justified. Learned counsel would further submit that under



the Registration Act, 1908 if a document is presented for registration the Registering Authority is bound to accept the same, if it is otherwise in order and cannot insist for no objection certificate .

3.Learned counsel for the second respondent, on the other hand would submit that the lands for which the sale deed is being executed, belongs to the temple. According to the learned counsel for the second respondent, the petitioner had purchased the property from the power of attorney holders who have no right or title over the property and the service holders have failed to continue their service to the temple and therefore, the second respondent has filed an appeal to recover the said amount before the Revenue Divisional Officer and the same is pending for adjudication. Learned counsel would strenuously argue that the petitioner has no locus standi to sell the property of the second respondent.

4.Learned Special Government Pleader on the other hand would submit that in view of the objections raised by the temple, they were unable to process the sale deed presented for registration by the petitioner.

5.I have given careful consideration to the submissions made by the learned counsel for the respective parties.

6.The issue involved in this writ petition is as to whether the first respondent is justified in seeking for no objection certificate from the temple for the purpose of registration. The issue touching upon the petitioner's locus to deal with the property involves disputed facts which can be resolved only before a competent civil court of law. In this regard various orders of this Court have been passed settling the issue that the Registering Authority is not justified in insisting for no objection certificate from the temple for the purpose of registration. This Court in W.P.No.4596 of 2013, by an order dated 23.02.2015, has held as follows:

"7.It would be worthwhile to refer to the order passed by this Court in W.P.No.1119 and 1120 of 2013 etc., batch dated 27.03.2013 wherein it is held as follows:-

"3.Today, learned counsel appearing for the petitioners submitted that the matters in issue is covered by the judgment of this Court made in W.P.No.29896 of 2011, which order was passed on 13.12.2011, by following an earlier order made in W.P.No.23345 of 2006, dated 24.07.2006. The said order was challenged in Appeal in W.A.No.1075 of 2011, which was also dismissed by the Hon'ble First Bench on 15.06.2012. The learned Special Government Pleader HR & CE for respondents 2 and 3 therefore, submitted that similar order may be passed in these Writ Petitions



also. The said facts are not disputed by the learned Government Advocate appearing for the respondents 1 and 4.

4. In view of the same, there will be a direction to the respondents 1 and 4 to register and return the documents to the petitioners without insisting upon any 'No objection certificate' within a period of two weeks from the date of receipt of a copy of this order. It is made clear that this order shall not be treated as conferring title to the petitioners in any legal or other proceedings.

These Writ Petitions are disposed of accordingly".

8. Accordingly, there shall be a direction to the first respondent not to insist upon No Objection Certificate from the second respondent, in the light of the facts stated above. Further the first respondent while registering and releasing the document, if otherwise in order, shall make an endorsement that merely on account of registration of the document, it will not be treated as conferring title on the petitioner in any legal or other proceedings. In other words, it is always open to the second respondent to establish the title of the temple or to pursue their appeal as against the order passed by the third respondent Tahsildar dated 13.03.2013."

7. The observations made in the above order are squarely applicable to the facts of the present case. As such, the petitioner is entitled to succeed in the present writ petition. In view of the same, the impugned order dated 28.10.2013 passed by the first respondent is quashed. The petitioner is granted liberty to present the sale deed dated 28.10.2013 to the first respondent and on receipt of the same, the first respondent shall receive, register and return the document to the petitioner without insisting for no objection certificate from the second respondent. The entire process shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

8. The writ petition is accordingly allowed. No costs. Consequently, M.P(MD)No.1 of 2013 is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar



To

The Sub Registrar,
Sub Registrar Office,
Registration Department,
Aundipatti, Theni District.

+One cc to M/s.Ajmal Associates, Advocate, SR.No.83027

+One cc to Mr.M.Karuppasamy Pandian, Advocate, SR.No.83005

sms

RL/4C/4P/SS3/SAR1/5.1.2017

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