

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.11.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.1880 of 2011 and
M.P.No.1 of 2011

The Joint Sub Registrar I
Chennai Central
Triplicane, Chennai - 600 005. ...Appellant/Respondent
Vs

1.Thangam Pandiaraj
2.The Tahsildar,
Mylapore - Triplicane Taluk,
Chennai. ...Respondents/Petitioner

(R2 impleaded vide order dated 7.4.2015
made in W.A.No.1880/2011)

Prayer:- Writ Appeal filed under clause 15 of Letters Patent,
against the order made in W.P.No.2310 of 2011 dated 22.07.2011.

*This writ petition filed under Article 226 of the Constitution
of india praying for a writ of mandamus Directing the respondent
herein to return the Release Deed dated 24.11.2010 pending
Document No.261 of 2010 on the file of the respondent herein
after duly registering the same within the time frame*

For Appellant : Mr.V.Anandhamurthy
Addl.Govt.Pleader

For Respondents : Mr.S.Raveekumar for
Mr.L.Seetharaman for R1

Ms.A.SriJeyanthi,
Spl.Govt.Pleader for R2

J U D G M E N T

K.K. SASIDHARAN, J.

The learned single Judge at the instance of the first
respondent issued a Mandamus directing the Joint Sub-Registrar,
Chennai Central to release the document, dated 24 November,
2010. The order is under challenge at the instance of the Joint

Sub Registrar on the ground that the learned single Judge was not correct in issuing a Mandamus to release the document without giving an opportunity to the statutory authority to follow the provisions of the Registration Act, which also provides passing an order for refusal of registration.

2. The first respondent produced a Release Deed before the registering authority dated 24 November, 2010 for registration. The Registering Authority kept the document as a pending document without passing orders. The respondent immediately filed a writ petition before this Court in W.P.No.2310 of 2011 for registration of the document and release of the same to her. The learned single Judge by following the earlier order in R.Sreedher Vs. Registering Officer (District Registrar), O/o. The Sub-Registrar, Chennai and another [2008 1 MLJ 342] allowed the writ petition and a direction was issued to release the document.

3. The ratio of the judgment in R.Sreedher case (cited supra) has absolutely no application to the facts of the present case. It is not a case of keeping a document by the Sub Registrar even after registration on the ground that proceedings under Section 47 A of the Indian Stamps Act is pending before the competent authority.

4. In the subject case, the Registrar is yet to register the document. The Registrar kept the document pending awaiting a report from the Tahsildar, Triplicane - Mylapore with regard to the land acquired in T.S.No.3884/276. The Joint Sub-Registrar wanted a report from the jurisdictional Tahsildar with regard to the nature of the land and as to whether it was a Government property. The respondent, without waiting for an order to be passed by the Registrar after receiving a report from the Tahsildar rushed to this Court by filing the writ petition.

5. There is a procedure prescribed under the Registration Act, 1908 for registration of document and to pass an order of refusal, in case, the Registrar is of the view that on account of certain reasons, it is not possible to register the document. Section 71 of the Registration Act mandates that the Registrar shall record the reasons for refusal to register the document in case a situation has arisen for such purpose. There is a statutory remedy available to the aggrieved to file an appeal under Section 72 of the Registration Act, against the order passed by the Sub-Registrar.

6. There is nothing on record to show that the Registrar has passed an order under Section 71 of the Registration Act. Even before passing such an order, the respondent has filed the writ petition. The learned single Judge directed release of the

document notwithstanding the fact that it was kept as a pending document. We are therefore of the view that the learned single Judge was not correct in directing the appellant to release the document.

7. We therefore set aside the order passed by the learned single Judge dated 22 July, 2011 in W.P.No.2310 of 2011.

8. We direct the appellant to pass an order taking into account the document produced by the respondent under Section 71 of the Registration Act, 1908. The respondent shall be given an opportunity of hearing before passing orders one way or the other by the Sub-Registrar. Such exercise shall be completed within a period of six weeks from the date of receipt of a copy of this judgment.

9. The intra court appeal is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

svki
To

1.The Tahsildar,
Mylapore - Triplicane Taluk,
Chennai.

2.The Joint Sub-Registrar I
chennai, central triplicane, chennai 600 005.

+2cc to Mr.HARI HARAN Advocate, S.R.No. 82093

+1cc to the Government Pleader, S.R.No. 82465

RSI (CO)
TR(18/12/2017)

W.A No.1880 of 2011

WEB COPY