



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2017

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.2316 of 2017

M.N.Asokan

... Petitioner

Vs.

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

2.The Tahsidar,
Ottapidaram Taluk,
Thoothukudi District.

3.The District Registrar,
Registration Department,
Thoothukudi District,
Thoothukudi.

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

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the fourth respondent in his proceedings A.Thi.Mu.No.5/2017 dated 05.01.2017 and quash the same as illegal and consequently directing the fourth respondent to register the sale deed presented by the petitioner on 05.01.2017 in respect of Punja Land to an extent of 1.21.5 Hectares (3 Acres) situated in Resurvey No.509/4, Ottapidaram Taluk, Panchalankurichi Village comprised in Patta No.1641.

For Petitioner : Mr.P.Banuprasath

For Respondents : Mr.A.Muthukaruppan
Additional Government Pleader

**ORDER**

This writ petition has been filed by the petitioner challenging the impugned order passed by the fourth respondent in his proceedings A.Thi.Mu.No.5/2017 dated 05.01.2017 and seeking a consequential direction to the fourth respondent to register the sale deed presented by the petitioner on 05.01.2017 in respect of Punja Land to an extent of 1.21.5 Hectares (3 Acres) situated in Resurvey No.509/4, Ottapidaram Taluk, Panchalankurichi Village comprised in Patta No.1641.

2. According to the petitioner, he was executed with a Power of Attorney by his wife in respect of the land situated in Resurvey No.509/4, Ottapidaram Taluk, Panchalankurichi Village. By virtue of General of Power of Attorney executed in favour of the petitioner, he sold the abovesaid property one Mr.Soloman Durairaj S/o Thangapandi Nadar on behalf of his principal Mr.Dhanapalan, on 05.01.2017 and presented the sale deed before the fourth respondent for registration with necessary stamp duty on the same day. But the fourth respondent vide impugned order dated 05.01.2017 refused to register the document. According to the fourth respondent, No Objection Certificate required to be produced from the first respondent based on the proceedings of the second respondent dated 27.08.2013.

3. The learned counsel appearing for the petitioner would submit that in a similar circumstances, a similar order passed by the Sub-Registrar was challenged before this Court and this Court in W.P(MD)No.21539 of 2016, this Court, after following the order passed in W.P(MD)No.17060 of 2015 dated 16.10.2015 ordered the writ petition. The relevant paragraphs of the said order are extracted hereunder:-

"4. A perusal of the order passed in W.P.(MD). No.17060 of 2015, dated 16.10.2015 shows that the learned counsel for the petitioner therein was also a party in the said order and the relevant portion of the said order reads as follows:

"2.1. It is the further case of the petitioner that as per the settled law, the Registrar should register the documents if the same is properly produced before the Sub-Registrar concerned. But, in the case on hand, the Sub-Registrar refused to register the document by referring the communication of the Revenue Divisional Officer, Kovilpatti, dated 27.08.2013 stating that the document should not be registered without obtaining 'No Objection Certificate' from him. The further case of the petitioner is that on 12.04.2013, a



by the Tahsildar for registration of document of one Saravana Kumar, the said Saravana Kumar had filed an original suit in O.S.No.397 of 2013, on the file of the learned Additional District Munsif Court, Tuticorin. The said suit ended in favour of the said Saravanakumar. As against the said suit, no appeal was filed by the respondents therein. However, the document presented by the said Saravana Kumar was not registered by the respondents therein. Therefore, he approached this Court by way of a writ petition in W.P.(MD). No.13583 of 2015. This Court, by an order dated 31.07.2015, made in W.P.(MD).NO.13583 of 2015 directed the respondents therein to register the document.

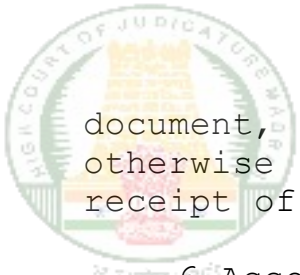
2.2.To back up his averment, the learned counsel for the petitioner placed a judgment of this Court reported in **(2008) 1 MLJ 342, K.Sreedhar vs. Registering officer (District Registrar)**, wherein, it has been held as follows:

"It is for the revenue authority to decide about the issuance or rejection of patta in respect of poromboke water pond and the registering authority has no power to withhold a sale deed and deny registration."

3.Keeping the submissions made on either side, I find that if the document is properly stamped and when there is no impediment to register the same, the Sub-Registrar cannot deny to register the document in question. Hence, following the earlier order of this Court made in W.P.(MD).No.13583 of 2015, dated 31.07.2015, this Writ Petition stands disposed of with a direction that the petitioner shall produce the necessary documents to the satisfaction of the fourth respondent, who in turn shall consider the same and thereafter, proceed with the registration and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed."

4.The learned Additional Government Pleader appearing for the respondents would not dispute that the issue is covered by the above decision.

5.Therefore, following the earlier order passed by this Court in W.P(MD)No.21539 of 2016, dated 24.11.2016, this Court is of the opinion that the impugned order passed by the fourth respondent dated 05.01.2017 is set aside. The fourth respondent/Sub-Registrar, Ottapidaram, Thoothukudi District is directed to register the



document, presented by the petitioner on 05.01.2017, if it is otherwise in order, within a period of four weeks from the date of receipt of a copy of this order.

6. Accordingly, this Writ Petition is ordered. No costs.

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Sd/-
Assistant Registrar (A.S)

/True copy/

Sub Assistant Registrar

To

1. The Revenue Divisional Officer,
Kovilpatti Sub Division,
Thoothukudi District.
2. The Tahsildar,
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Thoothukudi District.
3. The District Registrar,
Registration Department,
Thoothukudi District,
Thoothukudi.
4. The Sub-Registrar,
Ottapidaram Sub Registrar Office,
Ottapidaram,
Thoothukudi District.

+1 cc to Mr.P.Banu Prasath , Advocate in SR.No. 53819

skn

AE/MR/SAR3/27.04.2017/4P/6C

W.P. (MD) No.2316 of 2017
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