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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2018

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.17189 of 2012

K.Selvi

.. Petitioner

Vs

1. The Inspector General of Registrations
100, Santhome High Road
Foreshore Estate
Santhome, Chennai - 600 028.

2. The Tahsildhar
Poonamallee Taluk
Tiruvallur District
Tiruvallur.

3. The Sub Registrar
No. 59, Rottu Street,
Kundrathur
Chennai - 600 069.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the third respondent to register the sale deed vide Document No. P201100129 dated 03.11.2011 with effect from the same date.

For Petitioner : M/s. Nathan & Associates

For RR 1 & 3 : Mr.P.P. Purushothaman

For 2nd Respondent : Mr. Sri Jeyanthi
Special Government Pleader

ORDER

The Writ Petition has been filed for a mandamus directing the third respondent, namely, the Sub Registrar, Kundrathur, to register the sale deed, which is kept pending in document No. P201100129 dated 03.11.2011.



2. The petitioner was claimed in her affidavit that she was willing to purchase the property situated at No. 47, Kattupakkam Village, Poonamallee Taluk, bearing Old Survey No. 8 and New Survey No. 8/3, Thiruvallur District, Kundrathur Sub Registration District within the Registration District of South Chennai. She claimed to have verified the title deeds of the document and also the encumbrance certificate from the year 1989 to 2009.

3. According to her, the grandfather of S.Magesh and S.Mahendran, who are the present owners, had obtained the property on 01.08.1963 to an extent of about 0.53 cents through BOOMIDHANA IYAKKAM, represented by the District President, Chengalpet, for the welfare of schedule caste persons. It is stated that a settlement deed had been executed among the family members wherein there is reference to the said transaction dated 01.08.1963.

4. It was claimed in the affidavit that the vendors S.Magesh and S.Mahendran are the sole owners of the property. When the sale deed was presented for registration, the third respondent, namely, the Sub Registrar, Kundrathur, Chennai, had refused to register the document. The said Registrar called upon the petitioner to obtain a No Objection Certificate from the Bhoomidhana Iyakkam movement in order to take a decision in the above case.

5. The writ petitioner in the affidavit had further stated that she had parted with sale consideration of Rs.18,99,000/-. She claimed that the third respondent had refused to register the document.

6. In this connection, a reference much advantage can be drawn to Section 22(A) of the Registration Act 1908. The said provisions reads as follows:-

"22-A. Refusal to register certain documents- Notwithstanding anything contained in this Act, the registering officer shall refuse to register any of the following documents, namely:-

(iii) Donated for Bhoodan Yagna and vested in the Tamil Nadu State Bhoodan Yagna Board established under Section 3 of the Tamil Nadu Bhoodan Yagna Act, 1958 (Tamil Nadu Act XV of 1958".

This had been inserted by Tamil Nadu Act 2 of 2009.



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7. This provision had been introduced facts of the case. Section 2 of Registration (Tamil Nadu Amendment) Act, 2008 (2 of 2009), the lands categorised as Boomidhana Iyakkam must not be subjected to registration. There is prohibition by statute.

8. The learned counsel for the petitioner drew the attention of this Court to the reported Judgement in CDJ 2007 MHC 915 (M.L. Mathews & Others Vs. The Inspector General of Registration and Others). The learned counsel placed reliance on paragraph No. 7 wherein the learned Single Judge of this Court had relied on the Hon'ble Supreme Court Judgment in AIR 2005 SC 3401. Paragraph No. 7 reads as under:-

"7. The learned counsel appearing for the petitioners had relied on the decision of the Supreme Court in State of Rajasthan and others Vs. Basant Nahata, reported in AIR 2005 Supreme Court 3401, wherein it has been held as follows:-

"Public policy is not capable of being given a precise definition. What is 'opposed to public policy' would be a matter depending upon the nature of the transaction. The pleadings of the parties and the materials brought on record would be relevant so as to enable the Court to judge the concept as to what is for public good or in the public interest or what would be injurious or harmful to the public good or the public interest at the relevant point of time as contra-distinguished from the policy of a particular Government. A law dealing with the rights of a citizen is required to be clear and unambiguous. Doctrine of public policy is contained in a branch of common law, it is governed by precedents. The principles have been crystallised under different heads and though it may be possible for the Courts to expound and apply them to different situations but it is trite that the said doctrine should not be taken recourse to in 'clear and incontestable cases of harm to the public though the heads are not closed and though theoretically it may be permissible to evolve a new head under exceptional circumstances of a changing world'."



9. In this case, the Registration had not been denied since the conveyance was against public policy but because it was expressly prohibited by law.

10. In the present cease, the lands have been specifically categorised as Boomidhana Iyakkam lands. Registration cannot be permitted for such lands. Registration is prevented. Accordingly, the Writ Petition is dismissed. No costs

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vsg

To

1. The Inspector General of Registrations
100, Santhome High Road
Foreshore Estate
Santhome, Chennai - 600 028.
2. The Tahsildhar
Poonamallee Taluk
Tiruvallur District
Tiruvallur.
3. The Sub Registrar
No. 59, Rottu Street,
Kundrathur
Chennai - 600 069.

+1 cc to M/s.Nathan And Associates, Advocate Sr.No.79396
+1 cc to The Government Pleader, Sr.No.79959

W.P.No.17189 of 2012

SPD(CO)
CSL/05.12.2018