

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.5819 of 2017  
and  
W.M.P.No.6239 of 2017

M/s. K.E. Housing Private Limited,  
Rep. by its Director Mr.V.Vasantha Kumar,  
No.35, Masilamani Street,  
Rayapettah, Chennai - 600 014. ... Petitioner

... Vs ...

1. The Sub-Registrar,  
Thirupporur.
2. The Hindu Religious & Charitable Endowment Department,  
Represented by its Commissioner,  
Government of Tamil Nadu, Secretariat,  
Fort St. George, Chennai - 600 009.

(R-2 impleaded as per order of this Court dated  
17.04.2017 made in WMP No.10188/2017 in  
W.P.No.5819/2017.)

3. Nemmeli Alavandar Naicker Trust,  
Rep. by its Executive Officer,  
Mammallapuram,  
Thirukalukundram TK,  
Kancheepuram District.

(R-3 impleaded as per order of this Court  
dated 24.11.2017 made in WMP No.20807/2017  
in W.P.No.5819/2017.

... Respondents

Petition under Article 226 of the Constitution of India,  
praying for the issuance of a Writ of Certiorarified Mandamus,  
calling for the records of the first respondent pertaining to  
notice dated 16.12.2016 on the file of the first respondent and  
quash the same and consequently direct the first respondent to  
release the Sale Deed dated 02.11.2016 executed by the  
petitioner and registered as Document No.P116 of 2016 at the  
office of the first respondent to the petitioner within a time  
frame fixed by this Court.

For Petitioner : Mr.Richardson Wilson  
For R-1 : Ms.S.Ramya Revathi,  
Government Advocate  
For R-2 : Mr.M.Maharaja,  
Special Government Pleader  
For R-3 : Ms.R.Sripriya  
for Mr.V.Raghavachari

ORDER

M/s. K.E.Housing Private Limited, Rep. by its Director Mr.V.Vasantha Kumar, has filed this writ petition challenging the impugned notice dated 16.12.2016 issued by the Sub-Registrar, Thirupporur, to quash the same with consequential direction to release the Sale Deed dated 02.11.2016 executed by the petitioner and registered as Document No.P116 of 2016 within a reasonable time.

2. The learned counsel appearing for the petitioner submitted that the petitioner Company, which was incorporated in the year 2010 and registered under the provisions of the Companies Act, 1956, is in the real estate business for the past seven years. The petitioner Company purchased properties comprised in Old Survey Nos.168/3E1A1, 168/3E1A2, 168/3E1A3, 168/3E1A4 and present Survey No.168/16 admeasuring about 1 Acre 83 Cents and also the property in Survey No.168/3E1A2, admeasuring 3 Acres 33 Cents in all admeasuring about 5 Acres 16 Cents in Pattipullam Village, Chengalpet Taluk, Kancheepuram Distrit, falling within the Registration District of Chengalpet and Sub-Registration District of Thirupporur. The petitioner Company, after purchasing the aforementioned properties from one Mr.K.Sivaji, registered the same on 26.07.2016 which has been numbered as Document bearing No.8939 of 2016 at the office of the Sub Registrar, Thirupporur. Thereafter, the petitioner Company has decided to sell the property to one Dr.M.J.Mohan, S/o. Dr.M.V.Jayaraman. Hence, both the petitioner Company and said Dr.M.J.Mohan entered into a Sale Deed dated 02.11.2016 whereby, the petitioner agreed to sell the aforementioned properties to the said Dr.M.J.Mohan. Thereupon, a Sale Deed dated 02.11.2016 was presented before the first respondent herein for registration on 02.11.2016 for a total sale consideration of Rs.6,19,20,000/-. The first respondent herein/Sub Registrar, Thirupporur, on receipt of the document for registration, called upon the petitioner to pay the registration charges of Rs.6,19,350/- which was promptly paid by the petitioner and thereafter, the first respondent also issued a receipt in Receipt No.201613878 dated 02.11.2016 for the same and again, the petitioner was called upon to pay stamp duty of Rs.40,34,400/- towards conveyance charges which was also paid by the petitioner on the same day and for which also, the first

respondent issued receipt in Receipt No.65084 on 02.11.2016. But after receiving the Sale Deed dated 02.11.2016 for registration which was numbered as pending document No.P116/2016, the first respondent has refused to release the document and directed the petitioner to get No Objection Certificate from the Commissioner, Hindu Religious and Charitable Endowment (HR & CE) Department before registering the document. The reason for issuing the impugned notice shows that the petitioner has failed to obtain No Objection Certificate from the Commissioner, HR & CE Department because the Joint Commissioner, HR & CE Department has advised the first respondent that there are some pending cases on the file of the High Court at Madras regarding the properties of Arulmigu Nayakkar Trust comprised in Survey Nos.168/3E1A1, 168/3E1A2, 168/3E1A3 and 168/3E1A4. Therefore no registration should be done to the aforementioned Survey Numbers. In view of the refusal of the Sub Registrar, Thirupporur, to release the document to the petitioner, he has come to this Court with the aforesaid prayer.

3. This Court has impleaded both the Commissioner of HR & CE Department as R.2 and Executive Officer of Nemmeli Alavandar Naicker Trust as R.3.

4. Mr.M.Maharaja, learned Special Government Pleader appearing for the second respondent by filing counter affidavit fairly submitted that the lands covered in the Survey Numbers that have been registered by the first respondent do not belong to the HR & CE Department. The boundaries of the land belonging to the Temple are also properly demarcated by the Surveyor and the Executive Officer would also assist the first respondent to identify the boundaries of the land belonging to the Temple. Therefore, there would not be any difficulty for the first respondent to release the document. The counter affidavit filed by the second respondent also shows that the petitioner Company has purchased the property comprised in Survey Nos.168/3E1A1 to 168/3E1A4, which are presently the Survey Nos.168/16 and 168/3E1A2. The said lands have been in possession of the vendor Mr.Sivaji, who has been issued with patta. The Alavandar Trust does not own any land in the Survey Nos.168/16 and 168/3E1A2. Moreover, a survey was also conducted and the lands were all measured by the Surveyor of Thirupporur Taluk, in the presence of both the Executive Officer of the Alavandar Trust and employees, District Revenue Officer (retired) on behalf of the HR & CE Department and Tahsildar (retired) on behalf of the HR & CE Department and report also has been given by one Deputy Collector (retired) in favour of the Join Commissioner, Vellore, Kanchipuram and Thiruvallur District through letter dated 09.04.2016 under reference No.P.Ve.10/2016. The said letter also has been addressed to the Joint Commissioner, HR & CE Department, Sathuvachari, Vellore.

5. Therefore, since the lands belong to the Alavandar Trust have been properly demarcated by the vendors and the HR & CE Department has no objection for registering the Sale Deed by the petitioner, the first respondent/Sub Registrar, Thirupporur, is hereby directed to release the document to the petitioner forthwith.

6. With the above direction, this Writ Petition is disposed of. No costs. The connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar (CS IX)

//True copy//

Sub Assistant Registrar

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To

1. The Sub-Registrar,  
Thirupporur.
2. The Commissioner,  
The Hindu Religious & Charitable Endowment Department,  
Government of Tamil Nadu, Secretariat,  
Fort St. George, Chennai - 600 009.
3. The Executive Officer,  
Nemmeli Alavandar Naicker Trust,  
Mammallapuram,  
Thirukalukundram TK,  
Kancheepuram District.

+1cc to Mr.V.Raghavachari, Advocate SR.No.27420  
+1cc to Mr.Richardson Wilson, Advocate SR.No.27415  
+1cc to Government Pleader SR.No.28447

W.P.No.5819 of 2017

GN(24/04/2018)

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