

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.33989 of 2017

P.Balasubramaniam

.. Petitioner

Vs.

The Sub Registrar No.II,
The Office of Sub Registrar,
Thiruppur,
Thiruppur District.

.. Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified mandamus to call for the records pertaining to the impugned order dated 16.05.2017 bearing Na.Ka.No.200/2017 and quash the same and consequently directing the respondent herein to register the document when presented for registration by the petitioner in respect of the petitioner's land comprised in Survey No.165 corresponding to T.S.No.899/19/3 in Thiruppur Village, Thiruppur Town, Thiruppur Taluk and Survey No.163 corresponding to T.S.No.902/19/3 in Thiruppur Village, Thiruppur Town, Thiruppur, based on the order dated 13.1.2015 in W.P.No.32629 of 2014.

For Petitioner: Mr.L.Chandrakumar

For Respondent : Mr.R.Govindasamy

Special Government Pleader

O R D E R

The petitioner is aggrieved against the order dated 16.05.2017, passed by the respondent in refusing to register the document viz., the sale deed presented by the petitioner only on the reason that the time stipulated for registering the document in an order passed in W.P.No.32629 of 2014 had already expired.

2.Heard Mr.L.Chandrakumar, learned counsel appearing for the petitioner and Mr.R.Govindasamy, learned Special Government Pleader appearing for the respondents.

3.The following are the short facts, which necessitated the petitioner to file the present writ petition:

The petitioner is the owner of the subject matter property and when he wanted to sell the same and register the sale deed before the respondent, such request for registering the document was refused by stating that the petitioner has to obtain No Objection Certificate from the HR & CE Department. The petitioner contended that the HR& CE Department is not having any right over the said property and therefore, there is no question of obtaining the No Objection Certificate from the said Department. Therefore, the petitioner filed a writ petition before this Court in W.P.No.32629 of 2014, seeking for a mandamus directing the Registering Authority to register the documents when presented for registration by the petitioner in respect of his land in Survey Number 165 corresponding to T.S.No.899/19/3 in Thiruppur Village, Thiruppur Town, Thiruppur Taluk and Survey No.163 corresponding to T.S.No.902/19/3, Thiruppur Village, Thiruppur Town, Thiruppur Taluk. The said writ petition was disposed of on 13.01.2015, by holding that the Registering Authority has to accept for registration of the document presented by the petitioner in respect of his house sites bearing Plot Nos.11 and 16 alone without insisting upon the No Objection Certificate from the HR & CE Department, within a period of four weeks from the date of receipt of a copy of that order. The relevant paragraph No.7 of the said order reads as follows:

"7.In view of the above submission and following the earlier order passed by this Court in the above referred batch of writ petitions, there will be a direction to the third respondent to accept for registration, the documents presented by the petitioner, in respect of his house sites bearing Plot Nos.11 and 16 alone without insisting upon the No Objection Certificate from the second respondent, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that this order shall not entitle the petitioner to claim title in respect of the properties in question solely on the ground that the document has been registered or conferring any title on the proposed purchasers based on the sale deed that may be executed by the petitioner and the question of title is left open to be agitated before the appropriate forum in the event of challenge."

Though the said order was passed on 13.01.2015, entitling the petitioner to get the document registered without the production of the No Objection Certificate from the HR & CE Department, the petitioner was not in a position to present the sale deed for registration, since the intending purchaser, in the meantime, had withdrawn his offer, as he was not ready to purchase the said property due to the delay in registration. Therefore, the petitioner presented the sale deed, after finding

a new purchaser and the said document is refused to be registered by passing the impugned order, stating the reason for not registering the same, as stated supra.

4.Mr.L.Chandrakumar, learned counsel for the petitioner pointed out that the delay in presenting the document before the Registering Authority is neither willful nor deliberate and on the other hand, it is only due to the reasons set out in paragraph No.7 of the affidavit, wherein the petitioner has clearly stated that the original proposed purchaser was not ready to purchase due to the delay caused in registration and therefore, the petitioner was not able to present the document immediately after obtaining the order in W.P.No.32629 of 2014. Therefore, he submitted that the time stipulated for registering the document in the earlier order dated 13.01.2015, is to be construed from the date of presentation of the document.

5.On the other hand, Mr.R.Govindasamy, the learned Special Government Pleader submitted that when the petitioner has already approached this court and obtained the order as early as on 13.01.2015, he has not utilised the opportunity given to him by presenting the document and consequently, he cannot find fault with the Registering Authority in not registering the same, as the time granted by this Court to do so has already expired.

6.Upon hearing the learned counsels appearing on either side, it is evident that the order passed by this Court earlier in W.P.No.32629 of 2014 dated 13.01.2015, has become final and conclusive and binding on the parties. Therefore, the Registering Authority is not entitled to insist upon the No Objection Certificate from the HR & CE Department for registering the document. Factually, the Registering Authority is not insisting upon the petitioner to produce the said document viz., No Objection Certificate. On the other hand, their only objection is that the petitioner has not presented the document before the Registering Authority to register the same within the time stipulated by this Court.

7. No doubt, this Court has directed the Registering Authority to register the document within a period of four weeks from the date of receipt of a copy of the said order. Unfortunately, the petitioner is not in a position to register the said document, since the intended purchaser has withdrawn his offer in the meantime. Therefore, I find bonafide on the part of the petitioner in presenting the document belatedly after finding a new purchaser. In any event, as the reason for earlier rejection was set aside by this Court and the Registering Authority was directed to register the document without insisting upon the No Objection Certificate, the respondent is not going to be prejudiced in any manner, if the

present document is registered by following the earlier order passed by this Court. Accordingly, the writ petition is allowed and the impugned order is set aside. Consequently, the petitioner is permitted to present the document before the Registering Authority in respect of the plot Numbers 11 and 16 alone, within a period of four weeks from the date of receipt of a copy of this order. On receipt of such document, the Registering Authority will register the same, without insisting upon the No Objection Certificate from the HR & CE Department, within a period of four weeks thereafter. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

vri

To

The Sub Registrar No.II,
The Office of Sub Registrar,
Thiruppur,
Thiruppur District.

+1 cc to M/s.V.P.K.Gowtham Advocate sr 3066

+1 cc to Govt Pleader sr 2382

W.P.No.33989 of 2017

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