

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2018

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.26614 of 2010
and MP.No.1 of 2010

S.K.Mohammed Ayaz

... Petitioner

Vs.

The Sub-Registrar
(In the Cadre of District Registrar)
O/o. The Sub Registrar,
Purasawakkam, Chennai - 600 007.

... Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to number and return the pending sale deed dated 30.08.2010 kept as document Pending No.P201000101-Book 1 dated 30.08.2010 at the office of the Sub-Registrar, Purasawakkam, with respect to the property bearing Old No.3, New No.15, Dadasha Makkan Square 1st Street (also known as Dargah Street and Valli Hussain Street), Chennai-12, comprised in R.S.No.2811/5, O.S.No.2653, C.C.No.1270 of Purasawalkam Revenue Village, covering a total extent of 1000 Sq.ft.

For Petitioner : Mr.Inamdar Ameenur Rahman

For Respondent : Mr.J.Ramesh, AGP

ORDER

The prayer made in this writ petition is to direct the respondent to number and return the sale deed dated 30.08.2010 kept as pending document bearing No.P201000101-Book 1 dated 30.08.2010 at the office of the Sub-Registrar, Purasawakkam, with respect to the property bearing Old No.3, New No.15, Dadasha Makkan Square 1st Street (also known as Dargah Street and Valli Hussain Street), Chennai-12, comprised in R.S.No.2811/5, O.S.No.2653, C.C.No.1270 of Purasawalkam Revenue Village, covering a total extent of 1000 sq.ft.

2. According to the petitioner, he had purchased the property in question being the superstructure only and the land was not conveyed, which belongs to Dadashamakkan Dargah, from one

A. Muhammed Amanullah. When the sale deed was presented for registration, the respondent, instead of numbering the same, kept the same as pending for want of clarification from the Inspector General of Registration, as the land belongs to Dadashamakkan Dargah Trust. Further, the respondent directed the petitioner to obtain No Objection Certificate from the Wakf Board, in view of the order passed in G.O.Ms.No.150 Commercial Taxes Department, dated 22.09.2000, which states that the documents, which are opposed to public policy cannot be registered, unless NOC is obtained from the competent authority. Hence, this writ petition.

3. When the matter was taken up for consideration, the learned counsel for the petitioner submitted that the issue involved herein is covered by the earlier order of this Court dated 24.08.2012 passed in WP.No.22152 of 2012 in R.S.Sathish v. the Inspector General of Registration, Santhome, Chennai and others, wherein, this Court disposed of the said writ petition directing the respondents 2 and 3 therein to register the document within a period of two weeks. For better appreciation, the relevant portion of the said order is extracted hereunder:

"4. Today, the learned Additional Government Pleader submitted that the issue involved in this case is covered by judgment of this Court reported in 2008(4) LW 603 (R.Sreedhar v. The Registering Officer(District Registrar), Virugambakkam and another), which has been consistently followed in number of cases.

5. Further, no objection cannot be asked for, in view of the withdrawal of G.O.Ms.No.150 Commercial Taxes Department dated 22.09.2000 and also in holding that Section 22-A of the Registration Act, 1908 is ultra vires as was held in the judgment reported in 2005 (4) CTC 606 (State of Rajasthan and other v. Besant Nahata).

6. In view of the same, there is no question of issuance of any no objection certificate. Therefore, second and third respondents are directed to register the document within a period of two weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs."

Therefore, the learned counsel prayed for a similar order in this writ petition as well.

4.The learned Additional Government Pleader appearing for the respondent fairly conceded the submission so made by the learned counsel for the petitioner and he has no serious objection in such relief being granted to the petitioner.

5.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court is inclined to dispose of this writ petition, in line with the aforesaid order of this Court dated 24.08.2012 passed in WP.No.22152 of 2012.

6.Accordingly, this writ petition stands disposed of, directing the respondent to register the sale deed dated 30.08.2010 kept as pending document bearing No.P201000101 Book I, if it otherwise fulfils all the conditions and return the same to the petitioner, within a period of two weeks from the date of receipt of a copy of this order. However, it is open to the Wakf Board to proceed against the title holder of the superstructure, if he acts in any manner prejudicial to the interest of the Wakf Board with regard to the property in question. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS ix)

//True Copy//

Sub Assistant Registrar

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To

The Sub-Registrar
(In the Cadre of District Registrar)
O/o. The Sub Registrar,
Puraswakkam, Chennai - 600 007.

2.The tamilnadu walf Board
chennai.

+1 cc to Mr.Inamdar Ameenur Rahman Advocate SR.NO. 40333

+1 cc to Special Government Pleader SR.NO. 40876

W.P.No.26614 of 2010

ASK(04/09/2018)