



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
25.10.2018	29.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.21291 of 2016

and

W.M.P. (MD) No.15228 of 2016

Kusalavan

... Petitioner

vs.

1.The District Collector
Madurai District, Madurai

2.The District Registrar
Madurai District, Madurai

3.The Sub-Registrar
Melur Taluk, Madurai District ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records pertaining to impugned proceedings in Na.Ka.No.332/2016 before the 3rd respondent dated 16.09.2016 and quash the same and consequently direct the 3rd respondent to register the sale deed presented by the petitioner with respect of S.Nos.804/1A, 804/2, 805/1, 805/4, 810, 811/4 and other survey properties located in Sambiranipatti, A.Vallalapatti Village limit, Melur Taluk, Madurai District.

For Petitioner : Mr.B.Vinoth Balan

For Respondents : Mr.M.Murugan
Government Advocate (Civil Side)

O R D E R

The case of the petitioner is as follows:

(i) According to the petitioner, in the year 1979, his family members purchased several punja lands in Survey Nos.811/1, 811/2, 811/3, 811/4, 802/1, 804/1, 804/2, 804/3, 805/1, 805/2, 805/3, 810 and 816/4 of Sambiranipatti, A.Vallalapatti Village Limit, Melur Taluk, Madurai District. The petitioner's family members, including his wife and brother-in-law, executed registered Power of Attorney Deeds in his favour on 04.12.1991 and 04.08.2004 in respect of the



above said properties. In pursuance of the said Power of Attorney Deeds, the petitioner has been in peaceful possession and enjoyment of the aforesaid properties and has also obtained a separate Patta in respect of the above said properties and there is no dispute to the claim of the petitioner over the aforesaid properties.

(ii) While so, one Gopalakrishnan filed a Public Interest Litigation before this Court, in W.P. (MD) No.8286 of 2012, seeking to protect and preserve the water bodies, namely, Murugankone Kanmoi, situated in Survey Nos.811/1 to 4, Puthukanmoi and Sinnakulam, situated in Survey Nos.805/1, 2 and 3 and Nayakkankulam Kanmoi, situated in Survey Nos.815 and 819 of A.Vallalapatti Village, Melur Taluk, Madurai District. This Court, by order dated 06.08.2014, disposed of the said public interest litigation with a direction to the Authorities concerned to protect and preserve the water bodies in question, after issuing notices and giving opportunity of hearing to the persons, who are in possession thereof, within a period of twelve weeks from the date of receipt of a copy of the order.

(iii) In furtherance of the direction issued by this Court in the aforesaid public interest litigation, the first respondent directed the Commissioner of Land Administration to decide the issues and identify the lands in the water bodies. In order to give effect to the said direction, a Settlement Officer was appointed to investigate the matter and survey the properties for ultimate eviction and to preserve the water bodies. In furtherance thereof, the Settlement Officer, vide proceedings dated 28.07.2016, came to conclusion that the following lands in Survey Nos.811/1, 811/2, 811/3 and 805/2 are in water bodies and therefore, he recommended for cancellation of Patta granted in respect of the lands in the said survey numbers.

(iv) While matter stood thus, the petitioner approached the third respondent for registration of sale deed in respect of the properties, which are not covered under the above said survey numbers. However, the third respondent refused to register the document. In this regard, on 08.09.2016, the petitioner sent a representation to the respondents and in response to the same, on 16.09.2016, the third respondent passed an order stating that the properties covered under the proposed registration by the petitioner were part of the stay order, dated 20.10.2015, passed by the first



respondent. According to the stay order passed by the first respondent, the lands in the water bodies are not to be registered in view of the direction issued by this Court in the public interest litigation in W.P.(MD) No.8286 of 2012 on 06.08.2014. The order, dated 16.09.2016, passed by the third respondent is put to challenge in this writ petition.

2. The learned counsel appearing for the petitioner would contend that the registration of sale deed presented by the petitioner was in respect of the properties, which are not covered by the findings of the Settlement Officer, vide proceedings dated 28.07.2016. According to the learned counsel for the petitioner, the Settlement Officer, by the above said proceedings, has identified only the properties in Survey Nos.811/1, 811/2, 811/3 and 805/2 and not any other survey numbers. Therefore, there was no legal impediment on the part of the respondents 2 and 3 to register the document presented by the petitioner in respect of the properties, which are not covered under the above said survey numbers.

3. During the course of argument, the learned counsel for the petitioner also produced a copy of the proceedings of the first respondent, dated 16.09.2016, whereby the first respondent has directed the second respondent to proceed with the registration of documents in respect of the properties, which are not covered under the above said survey numbers, on the basis of the findings of the Settlement Officer, dated 28.07.2016. The learned counsel for the petitioner would also draw the attention of this Court to the findings of the Settlement Officer, whereby, the Patta stood cancelled in respect of the survey numbers as aforementioned and not cancelled in respect of the other survey numbers.

4. Upon notice, Mr.M.Murugan, learned Government Advocate (Civil Side) entered appearance on behalf of the respondents.

5. Counter affidavit has been filed on behalf of the respondents 2 and 3. In the counter affidavit, it is stated that this Court has given certain directions, vide order dated 06.08.2014, in the public interest litigation in W.P.(MD) No.8286 of 2012 and all the parties are bound by the directions issued by this Court. From the averments as contained in the counter affidavit, it appears that the non-registration of document is only on the basis of the fact that a direction was issued by this Court in the above said public interest litigation. However, the learned Government Advocate (Civil Side) appearing for the respondents would not dispute, and cannot also, either the proceedings of the first respondent, dated 16.09.2016 or the proceedings of the Settlement Officer, dated 28.07.2016.



6. When the above proceedings are not in dispute and no other valid reasons have been cited by the respondents for not registering the document presented by the petitioner for registration, this Court is unable to appreciate as to how the third respondent can refuse to register the document presented by the petitioner. The case of the petitioner is that the document presented by him for registration is not covered by the proceedings of the Settlement Officer and such a document is in relation to the properties, which fell outside the survey numbers forming part of the water bodies in question. Moreover, when the first respondent himself has issued a proceedings, dated 16.09.2016, directing the second respondent to take action for registration of documents in respect of the lands, which are not covered under the proceedings of the Settlement Officer, this Court does not see what is the valid basis for the third respondent for refusing to register the document presented by the petitioner for registration in respect of the properties, which are not covered under the proceedings of the Settlement Officer, dated 28.07.2016.

7. For the above said reasons, this Court is of the clear view that the petitioner has made out a case for grant of relief as sought.

8. Accordingly, the writ petition is allowed and the proceedings of the third respondent, in Na.Ka.No.332/2016, dated 16.09.2016, are hereby set aside. The third respondent is directed to take further action for registration of the sale deed presented by the petitioner in respect of the properties in Survey Nos.804/1A, 804/2, 805/1, 805/4, 810, 811/4 and other survey numbers, located in Sambiranipatti, A.Vallalapatti Village Limit, Melur Taluk, Madurai District, in case the sale deed is otherwise in order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS-II)

To:

1.The District Collector,
Madurai District,
Madurai.

<https://hcservicescourts.gov.in/hcservices>
2.The District Registrar,
Madurai District,
Madurai.



3.The Sub-Registrar,
Melur Taluk,
Madurai District.

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+1 CC To MR.B.VINOTH BALAN, Advocate SR. NO. 92542

+1 CC TO The Special Government Pleader SR.NO. 92777

ORDER

IN

W.P. (MD) No.21291 of 2016

and

W.M.P. (MD) No.15228 of 2016

29.10.2018

KRK

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