

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10385 of 2004
& W.P.M.P.No.12106 of 2004

P.Palanivalu,

....Petitioner

--Vs--

1. State of Tamil Nadu
rep. by Secretary to Government
Commercial Taxes, and Religious
Endowments Department,
Chennai-9
 2. The District Collector
Inspector of Panchayats,
Pudukkottai District,
Pudukkottai.
 3. The Inspector General of Registration,
Santhome High Road,
Santhome, Chennai.
 4. The Sub-Registrar,
Thirumayam Taluk,
Pudukkottai District.
-Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorari, to call for the records relating to the order of the 2nd respondent passed in Na.Ka.A3/3821/2003 dated 15.12.2003 and quash the same.

For Petitioner : Mr.Usharaman for Mr.C.R.Swaminathan

For Respondents : Mr.P.P.Purushothman, GA

J U D G M E N T

The present writ petition is filed challenging the order passed by the 2nd respondent in proceeding dated 15.12.2003. Through the impugned order the respondent directed the writ petitioner to submit the no objection certificate for registration of the sale deed, in respect of the land described in the present writ petition.

2. It is brought to the notice of this Court that in respect of the very same impugned order dated 15.12.2003, this Court passed an order on 22.08.2017 in W.P.No.24083 of 2004. The relevant portion of the order is being extracted hereunder:

4. The learned counsel appearing for the petitioner has submitted that the said Government Order relied upon by the 4th respondent in its order dated 22.09.2000 was already quashed by this Hon'ble Court in Captain Dr.R.Bellie Vs. The Sub Registrar reported in 2007(3) CTC 513, the relevant portion of which are extracted hereunder:

"9. It has already been pointed out that the Legislatures' of the State has not laid down defining 'public policy' or documents which are 'as opposed to public policy'. The provision was made vide G.O. Ms. No. 150, commercial Taxes, dated 22.9.00, as quoted above, has also been set aside by this Court vide judgment dated 20.3.06 in W.P. No. 7237/06. In view of the aforesaid fact, following the ratio laid down by the Supreme Court in the case of Basant Nahata (supra), we also declare the amended provision of Section 22-A as made vide Registration (Tamil Nadu Amendment) Act, 1994, unconstitutional and ultra vires Articles 14 and 246 of the Constitution of India.

10. Accordingly W.P. No. 42945 of 2006 is allowed. The impugned order dated 22.9.06 passed by the learned single Judge in W.P. No. 25407/05 is set aside and the writ appeal is allowed. The case of the appellants, Capt. Dr.R.Bellie and another is remitted to the competent authority for registration of the documents in accordance with law without taking into consideration the provision of amended Section 22-A of the Act or G.O. Ms. No. 150, Commercial Taxes, dated 22.9.00. There shall be no order as to costs."

5. In view of the above, this Writ Petition is allowed and the impugned order of the second respondent, dated

15.12.2003, is set aside. However, this order will not stand in the way of the respondents from invoking the relevant provisions, under the registration Act as well as H.R & C.E Act. No costs. Consequently, connected Miscellaneous petition is closed.

3. In view of the order passed by this Court cited(supra), the present writ petition deserves to be considered. Accordingly, the impugned order passed by the 2nd respondent in Na.Ka.A3/3821/2003 dated 15.12.2003 is quashed and the writ petition stands allowed. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

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To

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SJ(CO)

GMV (01/03/2019)