IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.02.2019

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.NO.3563 OF 2016
AND
W.M.P.NO.2929 OF 2016

K.Panneer Selvi Kumar,
Counsilor of 8th Ward,
Panruti Municipality,
No.7, S.P.T.M. Complex,
Link Road, Panruti - 607 106.
Cuddalore District. .. Petitioner

Vs.

1. The Inspector General of Registration,
   No.100, Santhome High Road,
   Chennai - 600 028.

2. The District Registrar,
   Cuddalore District,
   Cuddalore.

3. The Sub Registrar,
   Panruti,
   Cuddalore District - 607 106.

4. R.Mohamed Ibrahim,
   S/o.Late.Rahamathullah,
   No.16, Kuchipalayam Street,
   Panruti,
   Cuddalore District 607 106. .. Respondents

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PRAYER :
Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records in respect of the impugned order of information passed by the second respondent in Na.Ka.No.6722/A1/2015 dated 23.11.2015, quash the same and directing the second respondent to consider the representation of the petitioner dated 21.11.2012 to pass appropriate order in the said representation, to take necessary action according to the circular No.67 dated 03.11.2011 (C.No.52338/C1/2011) on the fraudulent registration

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made by the third respondent of the instruments presented by the fourth respondent in respect of the house sites of his unapproved layout named as Iyswaryam Nagar in T.S.No.5/2, 5A5 and 6/2 extending 3 acre 10 cents of Wet land at Panruti Municipal Limit, Cuddalore District.

For Petitioner : Mr.C.S.Dhanasekaran

For RR1 & 3 : Mr.T.M.Pappiah
Special Government Pleader

For R4 : Mr.P.Gurunathan

O R D E R

The writ petition has been filed challenging the impugned order passed by the second respondent in Na.Ka.No.6722/A1/2015 dated 23.11.2015 and seeking a direction to the second respondent to consider the representation of the petitioner dated 21.11.2015 and pass appropriate order in the said representation and to take necessary action according to the circular No.67 dated 03.11.2011 (C.No.52338/C1/2011) on the fraudulent registration made by the third respondent with respect to the instruments presented by the fourth respondent in respect of the house sites of his unapproved layout named as Iyswaryam Nagar in T.S.No.5/2, 5A5 and 6/2 extending 3 acre 10 cents of Wet land at Panruti Municipal Limit, Cuddalore District.

2. The petitioner, who claims to be the Ward Councilor of Panruti Municipality, challenged the order passed by the second respondent/ District Registrar, Cuddalore dated 23.11.2015. The petitioner submitted a representation dated 21.11.2015 on the allegation that the fourth respondent has made a layout in T.S.No.5/2, 5A5 and 6/2 in violation of the provisions of the Tamil Nadu Town and Country Planning Act, 1972 and without obtaining permission from the first respondent to convert the agricultural land into the residential plots.

3. Originally, the petitioner approached the concerned authorities with a similar representation dated 30.05.2015 and their inaction led to the filing of W.P. No.21040 of 2015 seeking a direction to the authorities to take appropriate action against the fourth respondent. This Court vide order dated 14.07.2015 directed the authorities to consider her representation and after hearing the parties, pass orders in accordance with law within four weeks from the date of receipt of a copy of that order. In compliance of the said order, the second respondent therein/the Assistant Director, Town and Country Planning advised the third respondent therein/the

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Commissioner, Panruti Municipality to take suitable action. The Commissioner also directed the fourth respondent to remove the layout and apply afresh in accordance with law, which was said to have been communicated earlier to the fourth respondent herein on 29.04.2015.

4. It is the claim of the petitioner that even thereafter, the third respondent entertained registration of documents pertaining to the very same layout and registered certain fraudulent documents. Thus, as indicated above, she gave the present representation dated 21.11.2015 to the second respondent.

5. The petitioner stated that the second respondent, without properly considering the representation, passed the impugned order stating that there is no impediment for registering even the unapproved plots. According to her, she relied upon G.O.Ms.No.139, Commercial Taxes and Registration (J1) Department, dated 25.07.2007 to pass the impugned order.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. The impugned order is a cryptic order, wherein, the petitioner was replied that there is no impediment for registering the unapproved plots. It is to be stated that subsequent to the impugned order much water had flown in the subject matter. The First Bench of this Court had passed orders in W.P.Nos.19566 of 2015, etc. batch holding that no registration with respect to the unapproved layouts could be done, fixing the cut off dates for exemption.

8. Subsequently, the Government of Tamil Nadu also issued G.O.Ms.No.123, Commercial Taxes and Registration (J2) Department, dated 09.09.2016 enforcing Section 22-A of the Registration Act, 1908, which was incorporated in the statute book vide Tamil Nadu Act 2 of 2009. Subsequently, the State Government also issued G.O.Ms.No.78 and G.O.Ms.No.79 Housing and Urban Development [UD4(3)] Department, dated 04.05.2017 notifying Tamil Nadu Regularization of Unapproved Layouts and Plots Rules, 2017 and the Tamil Nadu Change of Land Use (From Agriculture to Non-Agriculture Purposes in Non-Planning Areas) Rules, 2017 respectively.

9. Thereafter, the First Bench of this Court vide order 12.05.2017 clarified the recitals of the aforesaid rules holding that all unapproved layouts, where any or all plots are sold and registered on or before the 20th October 2016 and all unapproved plots which are sold and registered on or before the 20th October 2016 will be governed by the provisions of the Tamil Nadu Town

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and Country Planning Act, 1971 read with the aforesaid Rules. The said order was further clarified on 15.06.2017.

10. In view of the orders of the First Bench, the impugned order has to be set aside. Accordingly, the impugned order dated 23.11.2015 is set aside.

11. It is made clear that there cannot be any deviation by the registration authorities from what has been stated in the above said provisions and the orders of the First Bench of this court.

12. In such view of the matter, nothing survives for further adjudication in this Writ Petition and the same is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rsi/gg

To

1. The Inspector General of Registration,
   No.100, Santhome High Road,
   Chennai - 600 028.

2. The District Registrar,
   Cuddalore District,
   Cuddalore.

3. The Sub Registrar,
   Panruti,
   Cuddalore District - 607 106.

+1cc to Mr.C.S.Dhanasekaran, Advocate, S.R.No.13344
+1cc to the Government Pleader, S.R.No.14619

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