



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 19.06.2019

CORAM:

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

W.P. (MD) Nos.10137 and 10138 of 2019

W.P. (MD) No.10137 of 2019:

Rahim Khan

... Petitioner

Vs.

1.The District Registrar,  
District Registration Office,  
Pudukkottai.

2.The Sub Registrar,  
Manamelkudi Sub Registration Office,  
Manamelkudi,  
Pudukkotta District.

... Respondents

**Prayer:** The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings in A.Thi.Mu.No.4036/Aa1/2017 of the first respondent dated 31.08.2017 and to quash the same and further directing the respondents to register the pending document in P16/2016 on the file of the 1st respondent.

W.P. (MD) No.10138 of 2019:

Sihabudheen

... Petitioner

Vs.

1.The District Registrar,  
District Registration Office,  
Pudukkottai.

2.The Sub Registrar,  
Manamelkudi Sub Registration Office,  
Manamelkudi,  
Pudukkotta District.

... Respondents

**Prayer:** The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings in A.Thi.Mu.No.4035/Aa1/2017 of the first respondent dated 31.08.2017



and to quash the same and further directing the respondents to register the pending document in P17/2016 on the file of the 1st respondent.

For Petitioners : Mr.G.Sridharan  
For Respondents : Mr.M.Murugan, G.A.

WEB COPY

#### COMMON ORDER

The prayer in these Writ petitions is for a Writ of Certiorari, to quash the impugned proceedings of the first respondent dated 31.08.2017 and to direct the respondents to register the pending document in P16/2016 on the file of the first respondent.

2.Heard Mr.G.Sridharan, learned counsel for the petitioners and Mr.M.Murugan, learned Government Advocate appearing for the respondents.

3.According to the learned counsel appearing for the petitioners, the petitioners' vendor was having a land to the extent of 2.77 acres at Survey No.313/2 at Serkkainallur Village, Manamelkudi Taluk, Pudukkottai District. Some time, in the year 1965, in order to construct Police quarters for the police personnel, working in the Manamelkudi Police Station, Government seems to have approached the petitioners' vendor to bequeath the said property by way of land acquisition proceedings on negotiation. Accordingly, only to the extent of 2.44 acres of the land alone was handed over to the Government for construction of Police quarters and the remaining 33 cents had been retained by the vendor of the petitioners and the vendor had been continuously in possession and enjoyment of the property, from whom, the petitioners have purchased 62 square meters by sale deed dated 12.12.2016. However, when the said sale deed was submitted before the respondents for registration, the same has been kept as pending Document No.16/2016 and ultimately, by the impugned order dated 31.08.2017, the first respondent stated that, the land in question belongs to the Government as it stands in the name of the Government for the purpose of police quarters and therefore, on that ground, the request of the petitioners for registering the document was rejected.

4.Therefore, the learned counsel appearing for the petitioners submits that, the patta pertaining to the land in question stands in the name of the vendor of the petitioners and accordingly, an extract of the patta taken from online on 12.12.2016 has been filed before this Court and very heavily relying upon the same, the learned counsel appearing for the petitioners submitted that, the patta may not be conclusive proof to establish the title, however, it denotes that, the petitioners' vendor has not sold the entire property or entrusted the entire property to the government for constructing police quarters and the vendor of the petitioners



retained 33 cents. Therefore, only out of the 33 cents retained by the petitioners' vendor, now 62 square meters is being sold to the petitioners and therefore, the refusal, now made by the respondents to register the sale deed, is unjust.

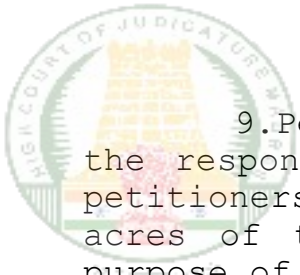
5. In this context, it is the further submission of the learned counsel appearing for the petitioners that, if at all, there is any dispute with regard to the extent of the land, at which extent, originally, the land was entrusted to the Government for police quarters construction and which extent was retained by the vendor of the petitioners, the respondents / Registering Authority has got power to have a limited enquiry ie. called summary enquiry and without even conducting such summary enquiry, the first respondent has passed the impugned order and therefore, it is palpably wrong.

6. In support of his contention, the learned counsel for the petitioners has relied upon a Division Bench judgment of this Court reported **2017(3) CTC 135** in the matter of **Sudha Ravi Kumar and another Vs. The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowment Department and others.**

7. In the said judgment, the learned counsel for the petitioners has relied upon paragraph no.8, which reads thus -

"8. Of course, the registering authority is not bestowed with any quasi judicial function to hold a roving enquiry in respect of the title to the property. But he has to hold a summary enquiry for the limited purpose of satisfying himself that the document deserves to be registered. Such enquiry is neither judicial nor quasi judicial. It is no more available for any debate as to whether the principles of natural justice should be applicable to administrative enquiries or not. The Hon'ble Supreme Court found that sometimes an unjust decision in an administrative enquiry will have far more serious consequences than a decision in a quasi-judicial enquiry and hence the rules of natural justice must apply equally in an administrative enquiry which may result in civil consequences. It is true that in the early stages of the development of the doctrine of natural justice the view prevailed was that rules of natural justice are applicable only for quasi judicial proceedings as distinguished from administrative proceedings and the distinguishing feature of the quasi judicial function is that the authority concerned is required by law under which it is functioning to act judicially."

8. By making all these submissions, the learned counsel for the petitioners, to sum up, would submit that, a direction can be given to the first respondent / District Registrar to have a summary enquiry as contemplated or as has been held in the said judgment of the Division Bench referred to above, and after having such summary enquiry, if the first respondent still feels that, the issue has to be decided before the competent Civil Court, parties can work out their remedy. But before resorting to such a method of having a summary enquiry, the first respondent ought not to have rejected the claim of the petitioners to register the document.



9. Per contra, the learned Government Advocate appearing for the respondents would submit that, according to the claim of the petitioners, the vendor of the petitioners has bequeathed only 2.44 acres of the land out of the total area of 2.77 acres for the purpose of construction of police quarters.

WEB COPY

10. He would further submit that, the entire 2.77 acres of the land has been purchased by way of land acquisition proceedings on negotiation for a valid sale consideration from the vendor of the petitioners in the late 1960s and in order to substantiate this of his contention, learned Government Advocate has produced a copy of the proceedings issued by the District Superintendent of Police, Pudukkottai District to the Inspector General of Police, Chennai in Na.Ka.No.B4/4792/78, dated 24.05.1978 wherein he relied upon paragraph no.02 which reads thus -

2.மனமேற்குடி கிராமத்தில் காவலர்கள் குடியிருப்பு, கட்டுவதற்காக 26.09.65 ம்  
மனமேற்குடி கிராமத்தில் எம்.எம்.313/2யில் 2.77 ஏக்கர் நிலமானது ரூ.4100/-  
க்கு நில ஆர்ஜித சட்டபடி மேற்படி நிலம் காவல் துறைக்கு மாற்றப்பட்டுள்ளது.-

11. By relying upon these documents, the learned Government Advocate submits that, since the entire land to the extent of 2.77 acres have already been handed over by the vendor of the petitioners long back to the police department for construction of police quarters, merely because the revenue people have not changed the patta in the name of the department, and it is still retained in the name of the vendor of the petitioners, they cannot take any advantage of the situation, and in this regard, the learned Government Advocate would also submit that, the patta stands in anybody's name, cannot be the conclusive proof to claim title over the property.

12. The learned Government Advocate, on the other hand, also made submission on the principle laid down in the said Division Bench judgment cited supra in **Sudha Ravi Kumar** case, and would further submit that, the principle laid down in the said judgment no doubt would apply to have a summary enquiry that too in the context of claim between Hindu Religious and Charitable Endowment Department and other third parties. Here in the case in hand, merely because of a summary enquiry, being conducted by the first respondent as contemplated in the said judgment, the issue raised herein cannot be resolved, since it is the definite case of the police department that, they have already been entrusted with the land of 2.77 acres for a sale through acquisition proceedings on negotiation and that has been in continuous possession of the police department, the rival claim now made by the petitioners, stepping into the shoes of its vendor on the ground that, only 2.44 acres of the land alone was bequeathed and 33 cents was retained by the vendor of the petitioners. Those issues can only be resolved by a competent Civil Court and not by mere summary proceedings of the Registrar and the principle underlined in the said judgment of the Division Bench cannot be made applicable to the facts of the present case.



13. I have considered the said submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

14. As it has been rightly pointed out by the learned Government Advocate appearing for the respondents, since the entire land of 2.77 acres claimed to have been acquired on negotiation for a valid sale consideration in the late 1960s and this has been reflected in the proceedings referred to above in the year 1978.

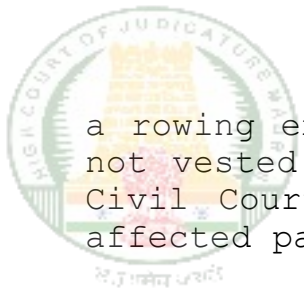
15. However, there is no contra document produced before this Court by the petitioners to establish his right that, the petitioners' vendor has bequeathed only 2.44 acres of the land alone and retained 33 cents. At one point of time, in fact, the learned counsel appearing for the petitioners submitted that, the said negotiation and handing over the land of 2.44 acres was made by the petitioners' vendor orally.

16. When there is a written document, which has to be taken into account as a primary evidence, of course, prima facie, in the absence of any contra evidence, the issue can only be resolved by letting evidence before the appropriate civil forum.

17. More over, the principles enunciated in the said Division Bench judgment to the considerable extent is against the petitioners for this reason that, the Division Bench has made it clear that, the Registrar is not a quasi judicial authority as he is not doing any quasi judicial function to hold roving enquiry in respect of the title of the property.

18. Here in the case in hand, the title itself is in question as the same is claimed by both the petitioners through his vendor and the police department.

19. If that being so, it is for the petitioners to agitate the issue by initiating appropriate civil proceedings in the concerned civil court, where after let in evidence, the petitioners must establish their right stepping into the shoes of the vendor of the petitioners and once the right of the petitioners is established with regard to the title of the property for 62 sq. meter and for which, the title of the property to the extent of 33 cents should also be declared in favour of the vendor of the petitioners. Without these two exercises are undertaken and a declaration to that effect is made by the competent civil court, it cannot be concluded either in favor of the claim of the petitioners or the claim of the police department and therefore, in that view of the matter, this Court is of the view that, the summary enquiry, as has been sought for by the petitioners to be conducted by the first respondent on the issue raised herein, cannot be made and such kind of drive cannot be made by this Court, directing the first respondent to conduct an enquiry, which in the strict sense of the principle of the Division Bench judgment cited supra, would be construed only as



a rowing enquiry to establish or identify the title as that job is not vested with the Registering authority and it is the job of the Civil Court, provided appropriate proceedings is initiated by the affected party.

20. Therefore, this Court is of the considered view that, prayer sought for in this Writ petition cannot be entertained and the impugned order cannot be assailed on any of the grounds raised before this Court in this Writ petition. Accordingly, the Writ petition fails, hence, the same is dismissed. No costs.

Sd/-  
Assistant Registrar (P&A)

/TRUE COPY/

Sub Assistant Registrar

To

1. The District Registrar,  
District Registration Office,  
Pudukkottai.

2. The Sub Registrar,  
Manamelkudi Sub Registration Office,  
Manamelkudi,  
Pudukkotta District.

+1 CC to M/s.G.SRIDHARAN, Advocate ( SR-69884[F] dated 19/06/2019 )

+1 CC to M/s.SPL GP ( SR-70251[F] dated 20/06/2019 )

W.P. (MD) Nos.10137 and 10138 of 2019  
19.06.2019

nbj  
JM/30.07.2019/6P-5C