



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) No.3671 of 2015

1.G.Kumaran
2.G.Murugavel
3.T.Sivalatha
4.M.Japa

... Petitioners

Vs

1.The Inspector General of Registration,
100, Santhome High Road,
Pattinapakka, Chennai - 28.

2.The Sub Registrar,
Office of the Sub-Registrar,
Vilathikulam Taluk,
Tuticorin District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent to release the sale deed, dated 29.01.2015, registered as Document No.P.201500004 with the office of the second respondent.

For Petitioner : Mr.S.Kadarkarai
For R1 and R2 : Mr.M.Murugan
Government Advocate

ORDER

Heard the learned counsel on either side.

2.The writ petitioners presented the sale deed dated 28.01.2015 for registration before the second respondent. The requisite stamp duty was paid and all the formalities also complied with. The second respondent received the document but kept it as a pending document. The writ petitioners are purchasers under the said document. Seeking release of the said documents, this writ petition has been filed.

3.When the matter was taken up for hearing, the learned Government Advocate pointed out that the document in question has been kept as a pending one since the parent documents have not been produced. He also pointed out that Survey No.8 of Vembar Village comprised an extent of 13.03 acres. From the encumbrance it is seen that already 10.52 acres have already been sold. Thus, only



1.67 acres is remaining. But the petitioners herein have purchased 12.19 acres vide the sale deed dated 28.01.2015. These are the reasons for keeping the document as a pending document.

4.The learned counsel for the writ petitioners pointed out that already their vendor have filed O.S.No.9 of 2013 on the file of the Sub Court, Kovilpatti in respect of the offending transaction which pertains to Survey No.8 of Vembar Village and that the matter was settled out of Court.

5.Be that as it may, the fact remains that the sale deed was registered on payment of proper stamp duty. Therefore, the Registering Authority cannot retain the document on the ground that the property does not belong to the person who executed the sale deed. If the Registering Authority has not even received the document for registration, then it would be a different matter. In this case, the document was received and proper stamp duty was also paid.

6.Therefore, as rightly pointed out by the learned counsel for the petitioner, the ratio laid down in the decision of the Hon'ble Madras High Court reported in **(2003) 3 MLJ 645** in the case of **Ramaswamy, Nallamnickenpatti vs. The Inspector General of Registrations, Santhome, Madras and others**, will come into play. It was held therein as follows:

"8.When the document has been registered on payment of stamp duty, there is no power for the registering authority to retain the document. If the property does not belong to the vendor who executed the sale deed and it belongs to someone else, the real owner may file a suit, before the appropriate Court, to set aside the document. Further by any deed of conveyance executed by a person who had no right over the property that is conveyed, no right is conveyed. In such cases, the purchaser takes the risk of losing the money. But on that ground the registering authority or the Collector cannot refuse to return the document registered. The action of the respondent in refusing to release the document on the ground that the sale deed was executed by the person who was not the real owner is not legally sustainable. It is not for the registering authority to verify as to whether the vendor in the sale deed has a right to convey the property mentioned therein. Therefore, the action of the respondents is not legal. It is nothing but high handedness on the part of the respondents. The respondents have no right whatsoever to retain the document when once it has been registered in accordance with the Rules.



9. For the reasons stated above, the writ petition is allowed as prayed for. The third respondent is directed to deliver the document forthwith to the petitioner herein on receipt of the copy of this order."

7. Accordingly, this writ petition is allowed. No costs.

Sd/-

Assistant Registrar (CRL SIDE)

// True Copy //

Sub Assistant Registrar (CS)

pnn

To

1. The Inspector General of Registration,
100, Santhome High Road,
Pattinapakka, Chennai - 28.

2. The Sub Registrar,
Office of the Sub-Registrar,
Vilathikulam Taluk,
Tuticorin District.

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 53607

+1CC TO MR.KADARKARAI, Advocate Sr. No. 53301

W.P. (MD) No. 3671 of 2015

12.03.2019

TR (03.04.2019) 3P 5C