



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

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W.P. (MD)No.16279 of 2019

Jamal Mohaideen

... Petitioner

Vs.

1.The Sub Registrar,
Office of the Registrar,
Woriyur, Tiruchirappalli.

2.The District Registrar
Office of the District Registrar,
Tiruchirappalli.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned communication in RC No.595/2016 dated 19.10.2016 of the 1st respondent addressed to the Sub-Court, Kulithalai, and quash the same and consequently direct the 1st respondent herein to receive the sale deed executed in favour of the petitioner herein pursuant to order of Sub-Court, Kulithalai, in E.P.No.38/2015 in O.S.No.90 of 2013 and register and release the document to the petitioner herein within a time frame to be fixed by this Court.

For Petitioner	: Mr.J.Ravikumar
For Respondents	: Mr.M.Murugan Government Advocate

ORDER

Challenging the impugned order dated 19.10.2016 of the 1st respondent and for a consequential direction to the first respondent to receive the sale deed executed in favour of the petitioner, the petitioner is before this Court with this Writ Petition.

2. In respect of the land to the extent of 2 acres 77 cents in S.No.16/1B1 at Rachandar Thirumalai Village, Aarchampatti Panchayat, Thogamalai Panchayat Union, Kulithalai Taluk, Karur, the petitioner seems to have submitted a sale deed with the respondents, ie., the first respondent for registration. However, the same has been returned / rejected through the impugned order dated 19.10.2016 with the following reasons:

"With reference to the judgment cited in the

^{1st} reference, the Hon'ble Madras High Court has



ordered an interim stay on registration of sale deeds on unapproved layouts. Hence, it is kindly submitted that it is unable to register the sale deed received along with your letter cited in the reference 2nd cited. The original deed received along with your letter is hereby enclosed and sent back."

Challenging the said order, the present writ petition has been filed.

3. I have heard the learned Government Advocate for the respondents, who would submit that, insofar as the reason stated in the impugned order is concerned, subsequently, some developments have been taken place, where Government orders have been issued to regularise unapproved housing plots and therefore, the said reason stated in the impugned order can no more be an impediment for registering the document in question. However, the learned Government Advocate would submit that, apart from the said reason stated in the impugned order, there is really an impediment for the registration department for registering the document in question, because the petitioner claims that, the said land is an agricultural land and on that basis, he valued the land and wanted to pay the stamp duty, whereas, the lands very adjacent to the petitioner's land, which is a contiguous land with part of the said lands, have already been sold by way of housing plots and including the land in question, a lay out has already been made and the area earmarked for public purpose seems to have been handed over to the local authority. When that being so, the land in question, which is the subject matter in the documents of the petitioner is concerned, shall not be construed as an agricultural land and therefore, the same being the housing plots has to be valued for the purpose of stamp duty only on square feet basis for the market value of the land. If at all the petitioner is ready and willing to pay the stamp duty for the market value of the land on square feet basis to be imposed, the respondents may not have any objection in registering the documents, he submitted.

4. In this context, infact, the learned counsel for the petitioner has filed an undertaking affidavit, filed by the petitioner dated 26.07.2019, which has the following contention:

"2.I undertake to pay the stamp duty and registration charges as may be duly assessed by the 1st respondent on the basis of market value of the subject property comprised in Survey number 16/1B1 having an extent of 2 acres 77 cents out of 1.12.0 Hectares; 31 cents out of 0.12.5 Hectares in Survey Number 188/1A1 and 1 Acre and 17 ¼ cents in Survey Number 189/1D excluding an extent of 11280 sq. ft. which was sold as house site bearing plot numbers 11,12,40,44,45,46,47,50 to 53 in Rachandar Thirumalai



Village, Aarchampatti Panchayat, Thogaimalai Panchayat Union, Kulithalai Taluk, Karur Revenue District, and within the jurisdiction of Woriyur Sub-Registration District and Tiruchi Registration District.

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3.I undertake to use or sell the subject land as agricultural land and not otherwise, except when duly permitted by competent authorities."

5. By relying upon these averments, the learned counsel for the petitioner would submit that, the petitioner is ready and willing to pay the stamp duty to be assessed and imposed on the land in question, based on the square feet rate on the market value and once the said stamp duty is fixed and since the petitioner is ready and willing to pay the same and if the said amount is paid as fixed by the respondents, the respondents may not have any further objection and accordingly, they can register the documents.

6. I have considered the said submissions made by the learned counsel for both sides and have gone through the reasons stated in the impugned order and the submissions made by the learned Government Advocate to that respect.

7. Insofar as the reason cited in the impugned order is concerned, the learned Government Advocate agrees that, the said reason may not stand in the way for registering the documents, as subsequently Government orders are issued to regularise the unapproved plots. Therefore, stating the reason cited in the impugned order, the respondents cannot refuse to register the document.

8. In that view of the stand taken by the learned Government Advocate, the impugned order cannot be sustained. Accordingly, the same is quashed.

9. However, insofar as the paying of stamp duty on the market value of the land on square feet basis, the stand of the respondents, especially, the first respondent, has been accepted by the petitioner and in this regard, the petitioner has filed the undertaking affidavit, which has been extracted already and therefore, once the petitioner come forward to pay the stamp duty on square feet basis for the market value of the land, this Court feels that there may be no further impediment for the first respondent to register the documents in question.

10. In view of the aforesaid discussion and factual matrix of the issue, this Court is inclined to pass the following order in this Writ Petition:



That the impugned order since is quashed, the matter is remitted back to the respondents to undertake the following:

(1) The land in question covered under the documents can be assessed on square feet basis on the market value of the land and accordingly, necessary stamp duty payable by the petitioner shall be intimated by the first respondent to the petitioner and on such intimation, the said stamp duty shall be paid by the petitioner; and

(2) Once the stamp duty to be intimated by the first respondent is paid by the petitioner, on receipt of the same, and if the document is otherwise in order, the first respondent shall register the same immediately.

11. With the above directions, this writ petition is allowed. No costs.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

Sub Assistant Registrar(CS)

RR

To

1.The Sub Registrar,
Office of the Registrar,
Woriyur, Tiruchirappalli.

2.The District Registrar
Office of the District Registrar,
Tiruchirappalli.

+1CC TO MR.G.PADMANABAN, Advocate Sr. No.79178
+1CC TO MR.T.THIRUMURUGAN, Advocate Sr. No. 77531
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 79478

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CS (CO)

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