



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2019

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

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W.P. (MD) No.16461 of 2019

and

W.M.P. (MD) No.13130 of 2019

Selvaduraisamy

... Petitioner

-Vs-

1.The Revenue Divisional Officer,
Kovilpatti Sub Division,
Thoothukudi District.

2.The Tahsildar,
Ottapidaram Taluk,
Thoothukudi District.

3.The District Registrar,
Registration Department,
Thoothukudi District,
Thoothukudi.

4.The Sub-Registrar,
Registration Department,
Ottapidaram, Thoothukudi District.

... Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 4th respondent dated 22.04.2019 in Refusal Number RFL/Ottapidaram/18/2019 and quash the same and consequently direct the 4th respondent to register the document of sale deed dated 01.04.2019 in respect of the land in Survey No.519/2 situate at Panchalamkurichi Village, Ottapitaram Taluk, Thoothukudi District.

For Petitioners : Mr.S.Ramasamy
For Respondents : Mr.V.Anand, G.A.

ORDER

The prayer in this writ petition is for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 4th respondent dated 22.04.2019 in Refusal Number RFL/Ottapidaram/18/2019 and quash the same and consequently direct the 4th respondent to register the document of sale deed dated 01.04.2019 in respect of the land in Survey No.519/2 situate at Panchalamkurichi Village, Ottapitaram Taluk, Thoothukudi District.



2. Heard Mr.S.Ramasamy, learned counsel appearing for the petitioner and Mr.V.Anand, learned Government Advocate appearing for the respondents.

3. With the consent of both sides, this writ petition is disposed of at the admission stage itself.

4. The petitioner, in order to register a document pertaining to the land in Survey No.519/2 situate at Panchalamkurichi Village, Ottapitaram Taluk, Thoothukudi District, presented the document to the 4th respondent, which has been refused to be registered through the impugned order dated 22.04.2019 stating that the petitioner should get an NOC from the Revenue Divisional Officer and then only, it would be registered as the land in question was originally assigned to the descendants of the Veerapandiya Kattabomman.

5. The learned counsel appearing for the petitioner would submit that, the issue has already been decided by this Court in number of cases and in one such case, the learned Judge relied upon the judgment of this Court by a learned Judge made in W.P.(MD) No.21539 of 2016 dated 24.11.2016 in the matter of **S.M.Malliga Vs. the Revenue Divisional Officer, Kovilpatti Sub-Division, Thoothukudi District and others.** In the said judgment, the learned Judge of this Court has passed the following order:

"4.A perusal of the order passed in W.P.(MD).No.17060 of 2015, dated 16.10.2015 shows that the learned counsel for the petitioner therein was also a party in the said order and the relevant portion of the said order reads as follows:

"2.1.It is the further case of the petitioner that as per the settled law, the Registrar should register the documents if the same is properly produced before the Sub-Registrar concerned. But, in the case on hand, the Sub-Registrar refused to register the document by referring the communication of the Revenue Divisional Officer, Kovilpatti, dated 27.08.2013 stating that the document should not be registered without obtaining 'No Objection Certificate' from him. The further case of the petitioner is that on 12.04.2013, a sale deed No.1700/2014 was registered by the same Sub-Registrar. In this regard, it has been further contended that when the same objection was raised by the Tahsildar for registration of document of one Saravana Kumar, the said Saravana Kumar had filed an original suit in O.S.No.397 of 2013, on the file of the learned Additional District Munsif Court, Tuticorin. The said suit ended in favour of the said Saravanakumar. As against the said suit, no appeal was filed by the respondents therein. However, the document presented by the said



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Saravana Kumar was not registered by the respondents therein. Therefore, he approached this Court by way of a writ petition in W.P.(MD). No.13583 of 2015. This Court, by an order dated 31.07.2015, made in W.P.(MD).NO.13583 of 2015 directed the respondents therein to register the document.

2.2.To back up his averment, the learned counsel for the petitioner placed a judgment of this Court reported in (2008) 1 MLJ 342, **R.Sreedhar Vs. Registering Officer (District Registrar)**, wherein, it has been held as follows:

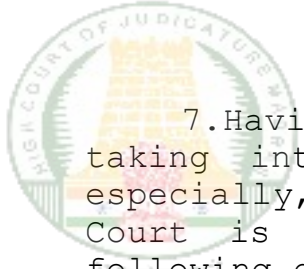
"It is for the revenue authority to decide about the issuance or rejection of patta in respect of poromboke water pond and the registering authority has no power to withhold a sale deed and deny registration."

3.Keeping the submissions made on either side, I find that if the document is properly stamped and when there is no impediment to register the same, the Sub-Registrar cannot deny to register the document in question. Hence, following the earlier order of this Court made in W.P.(MD).No.13583 of 2015, dated 31.07.2015, this Writ Petition stands disposed of with a direction that the petitioner shall produce the necessary documents to the satisfaction of the fourth respondent, who in turn shall consider the same and thereafter, proceed with the registration and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed."

4.Regarding the orders passed by this Court, the learned Additional Government Pleader appearing for the respondents has not disputed the same.

5.Following the earlier order passed by this Court in W.P.(MD).No.37060 of 2015, dated 16.10.2015, this Court is of the view that the impugned order passed by the fourth respondent, dated 21.09.2016 is set aside. The fourth respondent/Sub-Registrar, Ottapidaram, Thoothukudi District is directed to register the document, presented by the petitioner on 21.09.2016, if it is otherwise in order, within a period of four weeks from the date of receipt of a copy of this order."

6.The learned Government Advocate appearing for the respondents very fairly submits that, since already similar orders have been passed in this regard, following the said order, suitable direction can be given in this writ petition also.



7. Having regard to the said submission made by both sides, taking into account the earlier orders passed by this Court, especially, the order dated 24.11.2016 as referred to above, this Court is inclined to dispose of this writ petition with the following direction:

"Following the earlier orders passed by this Court, especially in W.P.(MD) No.21539 of 2016 dated 24.11.2016 in the matter of **S.M.Malliga Vs. the Revenue Divisional Officer, Kovilpatti Sub-Division, Thoothukudi District and others**, the impugned order passed by the 4th respondent dated in Refusal Number RFL/Ottapidaram/18/2019 is set aside and the 4th respondent is hereby directed to register the document in question presented by the petitioner, if it is otherwise in order, within a period of four weeks from the date of receipt of a copy of this order."

8. With this direction, this writ petition is ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

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Sub Assistant Registrar(CS)

To

1. The Revenue Divisional Officer,
Kovilpatti Sub Division, Thoothukudi District.
2. The Tahsildar, Ottapidaram Taluk,
Thoothukudi District.
3. The District Registrar,
Registration Department,
Thoothukudi District, Thoothukudi.
4. The Sub-Registrar,
Registration Department,
Ottapidatam, Thoothukudi District.

+1 CC to Mr.S.RAMASAMY, Advocate SR-77122.
+1 CC to SPL GP SR-77705.

Order made in
W.P. (MD) No.16461 of 2019
and
W.M.P. (MD) No.13130 of 2019
Dated: 24.07.2019