



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P(MD)No.25076 of 2019

and

W.M.P(MD)No.21675 of 2019

C.Dhiraviyam

... Petitioner

Vs.

1.The Sub-Registrar,
Thirumayam,
Pudukottai District.

2.The District Registrar,
Pudukottai District.

3.The District Collector,
Pudukottai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the impugned Refusal Check Slip in Refusal Number RFL/Tirumayam/149/2019 dated 30.09.2019 on the file of the first respondent and quash the same and further directing the first respondent to receive and register the Settlement deed dated 26.09.2019 submitted by the petitioner in respect of the property in Survey No.35/2, Meyyapuram Village, Thirumayam Taluk, Pudukkottai District.

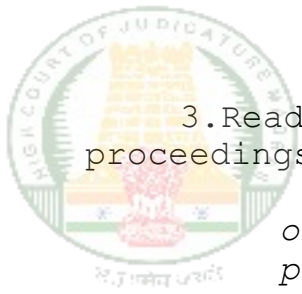
For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.M.Murugan,
Government Advocate.

ORDER

Mr.G.Prabhu Rajadurai, learned counsel on record for writ petitioner and Mr.M.Murugan, learned Government Advocate on behalf of all three respondents are before this Court.

2.With consent of learned counsel on both sides, main writ petition is taken up, heard out and is being disposed of.



3.Read this in conjunction with and in continuation of earlier proceedings of this Court dated 26.11.2019 which reads as follows:

'Mr.G.Prabhu Rajadurai, learned counsel on record for writ petitioner submits that writ petitioner presented a 'settlement deed dated 26.09.2019' for registration (hereinafter referred to as 'said settlement deed' for brevity). It is submitted that vide said settlement deed, writ petitioner intends to settle immovable property in favour of his wife and property which is subject matter of said settlement deed is land admeasuring 0.87.0 hectares or thereabouts in Survey No.35/2, Meyyapuram Village, Thirumayam Taluk, Pudukottai Registration District and Pudukottai Revenue District (hereinafter referred to as 'said land' for brevity).

2.When said settlement deed was presented for registration on 30.09.2019 in the office of first respondent (this Court is informed that first respondent is jurisdictional Sub-Registrar), on the same day, first respondent passed an 'order (obviously dated 30.09.2019) captioned 'Refusal Check Slip' bearing Reference No. RFL / திருமயம் / 149 / 2019' (hereinafter referred to as 'impugned order' for brevity) holding that a lease deed is reflected in Encumbrance Certificate qua said property, that writ petitioner should get the said lease deed cancelled and thereafter represent said settlement deed. This aspect of the impugned order reads as follows:

'வில்லயுக் சான்றின் உள்ள குத்தகை ஆவணத்தை ரத்து எய்து ஆவணத்தை மீள சமர்ப்பிக்க '

3.Adverting to aforesaid aspect of said settlement deed, learned counsel for writ petitioner submits that lease deed referred thereto is dated 31.08.2007. It is in the nature of a Tripartite document having been executed by writ petitioner, District Collector and one S.Muthukumar, who is a lessee, having obtained minor lease for a period of five years for 'Aralai, Jelly and Chakkai'.

4.Learned counsel for writ petitioner raises the following points:

a) Mining lease as well as land lease are for a period of five years from 31.08.2007 and the lease period has elapsed by efflux of



time. There is no concept of cancellation of lease deed after it elapses by efflux of period for which lease is granted.

b) Lease deed cannot come in the way of writ petitioner's settling said property in favour of his spouse as spouse will step into the shoes of writ petitioner qua said land. In other words, settlee will become lessor in terms of the clauses in lease deed.

c) Attornment of tenancy is automatic.

5.Mr.M.Murugan, learned Government Advocate, who accepts notice on behalf of all three respondents seeks time to get instructions and revert to this Court.

6.Registry to show name of State Counsel in the next listing.

7.List in the motion list on **28.11.2019.**

4.Today, after getting instructions, learned State Counsel fairly submits that there is no provision to insist on cancellation of a registered lease deed after the period of lease has expired.

5.In the instant case, there is no disputation or contestation that the period of lease which is for five years from 31.08.2007 expired on 30.08.2012.

6.In the light of aforesaid fair stand of learned State Counsel, on instructions, impugned order is set aside, first respondent is directed to take up the Settlement deed dated 26.09.2019, process registration of the sale deed in accordance with law if other legal determinants for registration are in order and conclude the process within a fortnight from the date of receipt of a copy of this order.

7.Instant Writ Petition is disposed of with the above directives. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Sub-Registrar,
Thirumayam,
Pudukottai District.

2.The District Registrar,
Pudukottai District.

3.The District Collector,
Pudukottai District.

+1 CC to M/s.G. PRABHU RAJADURAI, Advocate (SR-102691[F]29/11/2019)

+1 CC to M/s.Special Government Pleader (SR-102789[F] 29/11/2019)

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28.11.2019

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