

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2020
CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.2021 of 2020
and WMP.No.2355 of 2020

K. Khaleel,
S/o. Khajabaksh

.. Petitioner

Vs

The Sub Registrar,
Alandhur,
Pallavaram Taluk,
Chengalpattu District

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in Refusal No.RFL/Alandur/3/2020 dated 08.01.2020 and quash the same and thereby direct the respondent to receive and register the settlement deed dated 08.01.2020 executed by the petitioner in favour of his wife in respect of TP/83699674/2020 being the Gramanatham Survey No.44/1 - 540 sq.ft at Moovarasampattu Village, Door No.4/208, Erikarai Street, Pallavaram Taluk,Chengalpet District, in accordance with the Indian Registration Act.

For Petitioner : Mr. N. Suresh

For Respondent : Mr.T.M. Pappiah

Special Government Pleader

O R D E R

This writ petition has been field challenging the refusal check slip issued by the respondent on the ground that the petitioner has not produced the original document and patta.

2. The case of the petitioner is that he is the owner of the Gramanatham land and he is in possession and enjoyment of the same for a long period of time. The further case of the petitioner is that he executed three settlement deeds in favour of his wife and two daughters on 08.01.2020. These documents were presented for registration through online. The Department refused to register the documents, since the property is a Gramanatham land and no original document and patta was submitted at the time of registration.

3. Heard Mr.N. Suresh, learned counsel for the petitioner and Mr.T.M. Pappiah, learned Government Advocate for the respondents.

4. It is clear from the records that the property in question is recorded as a Gramanatham land even in A Register and the certificate issued by the VAO shows that the land is categorised as Gramanatham land.

5. In a case of similar nature, this Court passed an order in W.P.No. 14682 of 2016 dated 21.04.2016. The relevant portion in the order is extracted hereunder:

"(2.1) The case of the petitioner is that he is the absolute owner of the properties mentioned above and they are the Gramanatham house sites.

(2.2) According to him, the gramanatham property is not a property of the Government and it cannot be classified as Government property. A poor villager, who is residing in Gramanatham sites for quite a long time, acquires right, title and interest over the same. The question of grant of patta in Gramanatham property does not arise at all, as the Government has no control or jurisdiction over the said property.

(2.3) The petitioner has been in possession and enjoyment of the property in question for more than six decades in Gramanatham house sites. The petitioner has also paid the property tax.

(2.4) The petitioner executed a Settlement Deed on 15.4.2016, settling the property in favour of his wife and two sons. When the petitioner has approached the respondent for registration of the same, it was returned by the respondent for extraneous consideration. According to him, such documents are being registered continuously by the registration department and the petitioner alone is singled out and discriminated.

(2.5) In similar circumstances in respect of a Gramanatham property, this Court in Writ Petition No.16521 of 2015 vide order dated 1.9.2015 directed the concerned Sub Registrar to receive and register the settlement deed executed by the petitioner therein.

(2.6) Even after production of the said order, the respondent hasnot registered his document, but directed him to produce a similar order from this Court. Hence, having no other option, the petitioner has come up with this writ petition.

3. Heard the learned counsel for the petitioner and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader, appearing on behalf of the respondent.

4. A perusal of the affidavit filed in support of the writ petition indicates that the petitioner executed a Settlement Deed dated 15.4.2016 in favour of his wife and two sons, but the said document was not registered. The respondent refused to receive and register the document.

5. When the matter was taken up for consideration, it is brought to my knowledge that in similar circumstances, this Court passed an order in W.P.No.16521 of 2014 dated 1.9.2015 on the following lines:

"2. The law is quite settled that the gramathanamis not a Government poramboke land. The certificate issued by the V.A.O.shows that house has been constructed over the said land.what the petitioner has conveyed is a settlement by him to his son.The respondent cannot delve much into the title as a mere registration will not give such status.

3. In view of the same, this writ petition is allowed and the respondent is directed to receive and register the document to be reproduced by the petitioner subject to the payment of requisite stamp duty. No costs."

6. Therefore, in my considered opinion, if the properties mentioned in the schedule of the Settlement Deed dated 15.4.2016 executed by the petitioner are found to be Gramanatham properties, the respondent is duty bound to receive and register the same. Hence, the respondent is directed to receive the document, viz., settlement deed dated 15.04.2016 presented by him in respect of the properties in Natham S No.1351/ 1B - out of 2.05.0 hectare 304 sq.mts

(2,276 Sq.ft), Door No.2/74, Uthukattamman Koil Street, Chinnama Nagar, Thaiyur B Village, Tiruporur Taluk , Kanchipuram District and register the same, if the same are found to be Gramanatham properties, within a period of twelve weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs."

6. The above order will also squarely apply to the facts of the present case.

7. In view of the above, this Court has no hesitation to interfere with the refusal slip and accordingly the same is quashed. The respondent is directed to receive the settlement deed from the petitioner and register the same, if it is otherwise in order and thereafter release the document to the petitioner. It goes without saying that the petitioner shall pay the necessary stamp duty and registration charges.

8. This writ petition is disposed of with the above direction. No costs. Connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Sub Registrar,
Alandhur,
Pallavaram Taluk,
Chengalpattu District

+1 CC to Mr.N. Suresh, Advocate sr 25521.

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VS (CO)
SP(07/12/2020)