

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.10588 of 2020

M. Amutha  
W/o. Muthulingam

...Petitioner

Vs.

The Sub Registrar,  
Sub-Registration Office,  
Kodambakkam, Chennai.

...Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Mandamus, directing the respondent to release the pending document No.P167/2016 in their file by duly registering the same.

For Petitioner : Mr. Vedavalli Kumar

For Respondents : Mr.T.M. Pappiah  
Special Government Pleader

ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the respondent to release the pending documents in No.P167/2016 after registering the same.

2. The case of the petitioner is that the property originally belonged to one Rani and she executed a settlement deed in favour of the petitioner and others on 23.03.2015. The document was presented before the respondent and it was kept as a pending document from the year 2018 onwards. In the meantime, the settlor has also died on 31.05.2017. This document is yet to be registered and released and therefore, the present writ petition has been filed seeking for appropriate directions.

3. Mr.T.M. Pappiah, learned Special Government Pleader appearing on behalf of the respondents submitted that the subject property has been categorised in the Town Survey Land Registry as a Sarkar poromboke. The relevant document was also sent to this Court through E-mail. The learned counsel therefore

submitted that the document cannot be registered by virtue of the bar under Section 22A of the Registration Act. The learned counsel further submitted that the respondent also received the necessary communication from the Tahsildar in this regard, before taking a decision not to register the document.

4. The learned counsel for the petitioner submitted that the property is not a sarkar poromboke and the petitioner and others are tracing the title from the year 1966 onwards, when it was originally purchased by the said C.Rani. The learned counsel submitted that the petitioner was never informed till date that the property is categorised as a Sarkar poromboke. The learned counsel submitted that if this had been informed earlier, the petitioner would have atleast worked out the remedy in accordance with law.

5. This Court has carefully considered the submissions made on either side and the materials available on record.

6. The respondent on receipt of the document, has kept it as a pending document and there was absolutely no communication from the side of the respondent to the petitioner. If the respondent is not a position to register the document, since the property is recorded in the revenue records as a sarkar poromboke, the same could have been informed to the petitioner and others immediately, so that they could have taken appropriate steps in accordance with law. Unfortunately, the settlor has died in the year 2017, after executing the document. Therefore the petitioner and others, who are the settlees are caught in between.

7. Even though the property has been settled in favour of the petitioner and others, they cannot establish the same in a Court of law since the document has not been registered. However, to reach this stage the petitioner has to cross the major hurdle and prove that the property is not a sarkar poromboke. This is an exercise, which shall be done only before a competent Civil Court, since it involves title to the property. The same requires adducing evidence. If ultimately, the petitioner and others are able to succeed, the document already registered in favour of the petitioner and others should be taken on file by the respondents and it has to be registered. It becomes important to give this clarification, since the settlor has unfortunately died in the year 2017.

8. In view of the above discussion, the respondent is directed to return the pending document to the petitioner within a period of two weeks from the date of receipt of a copy of this order. It is left open to the petitioner to work out her remedy

in accordance with law with regard to the title over the property before the competent forum.

This writ petition is disposed of accordingly. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

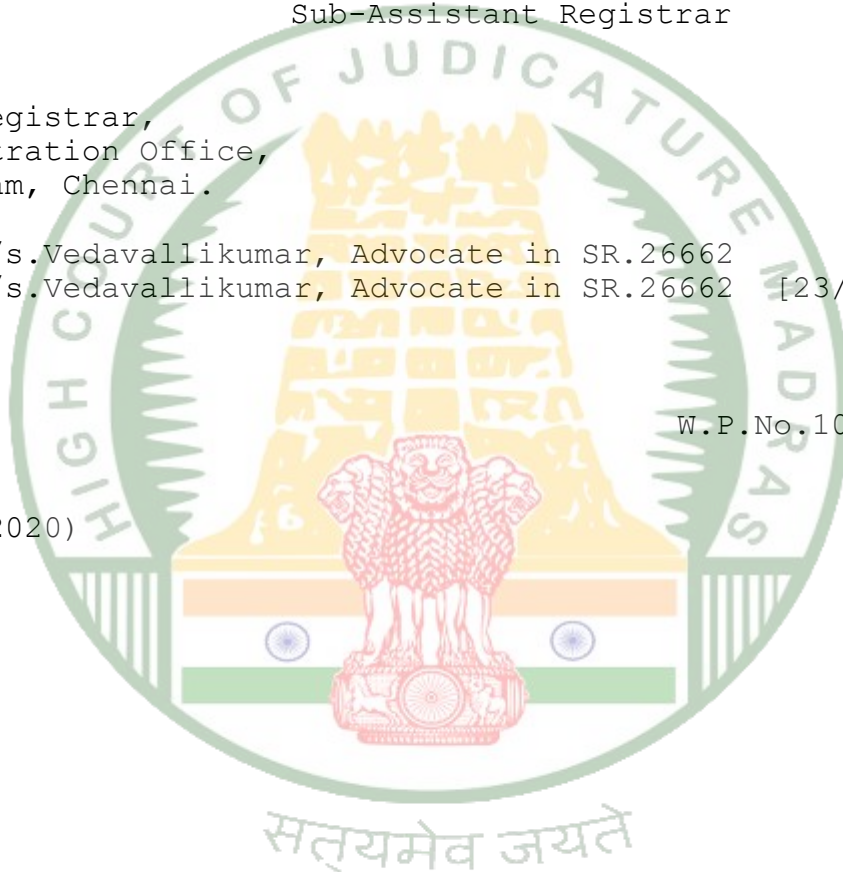
The Sub Registrar,  
Sub-Registration Office,  
Kodambakkam, Chennai.

+1cc to M/s.Vedavallikumar, Advocate in SR.26662

+2cc to M/s.Vedavallikumar, Advocate in SR.26662 [23/09/2020]

W.P.No.10588 of 2020

SPD(CO)  
RV(18/09/2020)



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