

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :04.12.2020

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.15752 of 2020

S.Zakir hussain

... Petitioner

Vs.

1. The District Registrar,
District Registrar office,
Neruperichal,
Pooluvapatti post,
Tiruppur.

2. The joint-2 Sub Registrar,
Neruperichal,
Pooluvapatti post,
Tiruppur.

3. Rukmani

4. Nagarajan

5. Ravichandran

6. Gunasekaran

.... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the 2nd respondent to return Sale Deed dated 10.08.2020 registered as document no.2973 of 2020 within the time framed manner.

For Petitioner : Mr.K.Sudhakar

For Respondents: Mr. T.M.Pappiah

Special Government pleader
for R1 and R2.

ORDER

The present writ petition has been filed for the issue of writ of mandamus directing the 2nd respondent to return the Sale Deed dated 10.08.2020, registered as document No.2973 of 2020 to the petitioner.

2. The case of the petitioner is that the respondents 3 to 6 offered to sell the subject property to the petitioner. The petitioner was inclined to purchase the property and he insisted to verify the original title documents. He was informed by the respondents 3 to 6 that the original documents are lost and already a complaint has been given and a non-traceable certificate has been issued by the Central police Station, Thiruppur. The petitioner believing the statement made by respondents 3 to 6 agreed to purchase the property for a

total sale consideration of 21,77,000/-. The Sale deed was executed in favour of the petitioner on 10.08.2020 and it was presented for registration before the 2nd respondent and it was also registered as document No.2973 of 2020. The grievance of the petitioner is that this document was not returned back to the petitioner even after registration. Left with no other option, the present writ petition has been filed before this Court.

3. Mr.T.M.Pappiah, learned Special Government pleader appearing on behalf of respondents 1 and 2 submitted that the 2nd respondent sent a communication dated 10.08.2020 to the Inspector of police, Central police station, Thirupur and verified about the genuineness of the non-traceable certificate that was presented at the time of the registration of the document. The 2nd respondent received a communication from the concerned police dated 15.09.2020, informing the 2nd respondent that no such complaint was received by the concerned police and no non-traceable certificate was issued by the concerned police. The learned Special Government pleader further submitted that a criminal case has been registered for producing a bogus non-traceable certificate. For this reason, the Sale Deed that was registered in document No.2973 of 2020 was not returned back to the petitioner.

4. Per contra, the learned counsel for the petitioner submitted that the petitioner is a bonafide purchaser, who believed the non-traceable certificate that was shown to him by respondents 3 to 6. The learned counsel further submitted that the petitioner has now paid the entire sale consideration and he cannot be victimised for the illegal act committed by respondents 3 to 6. The learned counsel therefore submitted that the Sale Deed that was registered before the 2nd respondent will have to be returned to the petitioner.

5. In the considered view of this Court, both the petitioner as well as the 2nd respondent have acted upon the non-traceable certificate produced by respondents 3 to 6 by believing it to be genuine. The fact that it is a fabricated document came to light only after the registration was completed and only when a communication was received from the concerned police station. It is informed that a criminal case has been registered and the investigation is pending against the respondents 3 to 6 for having produced a fabricated document.

6. In the considered view of this Court, the petitioner is an innocent purchaser, who has paid the entire sale consideration and he is entitled to receive the registered document from the 2nd respondent. The document cannot be retained by the 2nd respondent only based on the communication received from the concerned police. If ultimately, the Sale Deed also becomes a relevant document in the course of investigation, it will always be open to the police to seize the document in the manner known to law and produce it before the concerned Court. Till then, the petitioner will be

entitled to hold the registered Sale deed, since he has become the owner of the property.

7. This writ petition is disposed of with a direction to the 2nd respondent to hand over the registered Sale Deed dated 10.08.2020 registered as document no.2973 of 2020 to the petitioner forthwith. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

rka

To

1. The District Registrar,
District Registrar office,
Neruperichal,
Pooluvapatti post, Tiruppur.
2. The Joint-2 Sub Registrar,
Neruperichal,
Pooluvapatti post,
Tiruppur.

+1cc to Mr.K.Sudhakar , Advocate SR.No. 39050
+1 cc to Government Pleader Sr.No. 39759

W.P.No.15752 of 2020

A.SK(07.01.2021)

सत्यमेव जयते
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