

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.16912 of 2020

and

WMP No.20983 of 2020

S.Mariyappan

...Petitioner

Vs.

- 1 The District Registrar
Salem West, Salem- 635 307.
- 2 The Sub Registrar
D.No.9/88-D Opp. of ESI Hospital
West Main Road
Mettur Dam, Mettur, Salem District.

...Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the file of 2nd respondent relating to 1) Refusal check slip in refusal number RFL/ Mettur/ 44/ 2020 dated 08.09.2020 and 2) refusal check slip in refusal number RFL/Mettur/45/2020 dated 08.09.2020 and quash the same and consequently, direct the 2nd respondent to register the sale deeds in favour of the petitioner (1) executed by Tmt. Perumayee on 07.09.2020 conveying an extent of 6,540 sq.ft of vacant industrial site and (2) executed by Tmt. Kalaiarasi on 07.09.2020 conveying an extent of 5,460 Sq.ft of vacant industrial site both the extent of lands comprised in T.S. No.4/1 New Ward No.D, New Block No.13 of Mettur Municipality and to return such sale deeds after due registration to the petitioner.

For Petitioner : Mr.Sai Krishnan

For Respondents: Mr.T.M.Pappiah

Special Government Pleader

ORDER

This writ petition has been filed challenging the refusal slips issued by the 2nd respondent dated 08.09.2020 and for a consequential direction to the 2nd respondent to register the sale deeds presented for registration with regard to the subject property.

2. The case of the petitioner is that M/s.Jayalakshmi Pressings Pvt. Ltd. purchased an extent of nearly 25 acres of land by virtue of a registered sale deed dated 19.12.2012. Out of these 25 acres, the said company plotted out industrial sites for an extent of 8 acres and sold it to various purchasers. It is also seen from records that the petitioner himself has purchased a site in the year 2016 and the petitioner is claiming that he is running a unit in the said site. The further case of the petitioner is that more than 25 sale deeds have been registered for varying extents and all that has been sold only as an industrial site. According to the petitioner, the SIDCO industrial estate is also situated adjacent to this property and the entire area is an industrial area.

3. The petitioner wanted to purchase lands situate opposite to his unit from one Kalaiyarasi and Perumayee. These 2 persons had purchased the property from the same company namely M/s.Jayalakshmi Pressings Pvt. Ltd. in the year 2016. When the sale deeds were presented for registration before the 2nd respondent, the 2nd respondent through the impugned refusal check-slips, refused to register the documents on the ground that the above said Kalaiyarasi and Perumayee had purchased the property at the time when there was an interim order passed by this Court restraining registration of any documents with respect to properties in an unapproved layout. Aggrieved by the same, the present writ petition has been filed before this Court.

4. Heard Mr.Sai Krishnan, learned counsel for petitioner and Mr. T.M.Pappiah, learned Special Government Pleader for respondents.

5. There are two issues which were projected in the course of arguments and they are (a) Section 22(A) of the Registration Act, 1908 will apply only in respect of house sites and it will not apply insofar as industrial sites are concerned; and (b) the order in the writ petition that has been put against the registration of the documents only pertains to registration of plots in unapproved layouts as house sites and this cannot be extended to industrial sites.

6. The relevant provision under Section 22(A) (2) of the Registration Act is extracted hereunder:-

"22-A. Refusal to register certain documents :-Notwithstanding anything contained in this Act, the registering officer shall refuse to register any of the following documents, namely:-

(1)

(2) instrument relating to the transfer of ownership of lands converted as house sites

without the permission for development of such land from planning authority concerned:

Provided that the house sites without such permission may be registered if it is shown that the same house site has been previously registered as house site."

7. A plain reading of the above provision shows that the bar to register documents will only apply to plots in unapproved layouts, which are treated as house sites. In the present case, the petitioner specifically pleads that all the other earlier registrations had taken place only by showing the property as industrial sites. Even the petitioner, who purchased the property from the above said company in 2016 has utilised the property only to setup an industrial unit. The petitioner wants to purchase the sites lying opposite to his industrial unit with a view to expand his operations. Therefore, on the face of it, the bar under Section 22(A) of the Act may not apply to the facts of the present case, since the property in question is dealt with as an industrial site.

8. Coming to the question of interim orders passed by this court in W.P.No.19566 of 2015 etc., it will be relevant to take note of para 20 of the order passed by the Hon'ble Division Bench on 12.05.2017, which reads as follows:-

"20. However, registration of plots in unapproved layouts as house sites made after 09.09.2016 until 28.03.2017 and between 21.04.2017 and today (12.05.2017), if any, is in violation of an order of the Court and prima facie a nullity in the eye of law. Plots in unapproved layouts registered as house sites while the interim orders were in force shall not be registered until further orders."

9. The above direction given by the Hon'ble Division Bench will only apply in cases where the plots in approved layouts are registered as house sites while the interim orders were in force. The interim order passed by the Hon'ble Division Bench will not apply where the property in question is an industrial site. In fact, the main thrust of the order passed by the Hon'ble Division Bench was to prevent the development of unauthorised layouts and conversion of agricultural areas for non-agricultural use in an unplanned manner. The purport of this order will not apply to industrial sites and more particularly, since there is no question of conversion of the purpose for which the land is put to use, is involved in this case.

10. In view of the above discussion, this Court does not find any restriction in the 2nd respondent entertaining the registration of the document by treating the property as an industrial site. It is also made clear that this order will not be taken advantage by any other site owner in the property to deal with the plot as a housing site. If any such attempt is made, the bar under Section 22(A) of the Registration Act will come into play.

11. In the result, the impugned refusal slips issued by the 2nd respondent are hereby quashed and there shall be a direction to the 2nd respondent to entertain the documents presented by the petitioner and register the same, if it is otherwise in order and the necessary stamp duty and registration fees is paid. The 2nd respondent shall ensure that the property is specifically described as an industrial site in the documents presented for registration.

12. This Writ Petition is allowed with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mra
To

- 1 The District Registrar
Salem West, Salem- 635 307.
- 2 The Sub Registrar
D.No.9/88-D Opp. of ESI Hospital
West Main Road
Mettur Dam, Mettur, Salem District.

+1cc to Mr.T.Saikrishnan, Advocate, S.R.No.39612

+1cc to the Government Pleader, S.R.No.39813

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