

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.29298 of 2019

Menaka,  
W/o.Sadhanandam,  
No.83, Ayothiyamman Koil Street,  
Anakaputhur,  
Chennai - 70. ...Petitioner

Vs.

1.The Sub Registrar,  
Pammal,  
Chennai - 75.  
2.The Tahsildar,  
Pallavaram, ...Respondents  
(R2 Suo-motu impleaded as per order  
dated 05.11.2019 made in W.P.No.29298 of 2019)

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondent to complete the registration of the sale deed dated 05.07.2019 in respect of the property in Gramanatham S.No.313/1 - 765 sq.ft at Anakaputhur Village, Pallavaram Taluk, Kanchipuram District, under pending Document No.P227/2019 (Temporary No.TP/66553767/2019) in accordance with the provisions of Indian Registration Act also release the same.

For Petitioner : Mr.N.Suresh  
For Respondents: Mr.T.M.Pappiah  
Special Government Pleader for R1  
: Mr.S.N.Parthasarathy  
Government Advocate for R2

O R D E R

This writ petition has been filed for issue of writ of mandamus directing the respondent to register the sale deed dated 05.07.2019 and release the document to the petitioner.

2. The specific case of the petitioner is that he is an owner of the property which has been classified as Gramanatham. The petitioner has put up a construction in the said property. The further case of the petitioner is that the petitioner is in possession and enjoyment of the property for

a long period of time. The petitioner wanted to deal with the property and sale deed was executed by the petitioner on 05.07.2019. When the document was presented for registration before the first respondent, the first respondent refused to register the document on the ground that there is an objection from the revenue to register any document falling under Gramanatham. Aggrieved by the same, the present writ petition is filed before this Court.

3. When the matter came up for hearing on 05.11.2019, this Court suo motto impleaded the Tahsildar, Pallavaram as the second respondent and the Tahsildar was directed to submit a report.

4. The Thasildar, Pallavaram has submitted a report dated 11.03.2020, wherein he has categorically stated that the property has been classified as Gramanatham and the petitioner has put up a construction and is in possession of the same. He further stated in the report that the steps will be taken to issue patta after examining the documents, in accordance with law.

5. Heard N.Suresh, learned counsel for the petitioner, Mr.T.M.Pappiah, learned Special Government Pleader appearing on behalf of the respondent and Mr.Prathasarathy appearing on behalf of the respondents.

6. It is now a well settled law that the first occupier of the land will be treated as a owner insofar as the Gramanatham lands are concerned. This Court has also held that the Government will have no right to interfere with the possession of the person holding a Gramanatham land unless it falls under the category of Poramboke land and such lack of authority will also encompass an attempt to make for re-classification of the Gramanatham lands.

7. The learned counsel for the petitioner also drew the attention of this Court the earlier order, passed by this Court in several writ petitions where Gramanatham land is involved.

8. It will be relevant to extract the portion of the order passed in one of the writ petition in W.P.No.1900 of 2018 dated 18.01.2019

"5. Admittedly, the petitioner has been in possession and enjoyment of the property, which is classified as gramanatham. He produced a certificate dated 23.11.2017 issued by the concerned Village Administrative Office to substantiate the classification.

6.At this juncture, it is relevant to note that a learned Single Judge of this Court in W.P.NO.16521 of 2014 passed the following order:

"2.The law is quite settled that the gramamatham is 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 produced by the petitioner subject to the payment of requisite stamp duty..."

7.Following the aforesaid order, a similar direction was passed by this Court in W.P.No.14682 of 2016 on 21.04.2016.

8.In such view of the matter, this writ petition is allowed and the respondent is directed to receive and register the document to be produced by the petitioner with respect to the petition mentioned property, subject to the payment of requisite stamp duty, within a period of twelve weeks from the date of receipt of a copy of this order. No costs."

9. In view of the above, this Court has no hesitation to issue a direction to the first respondent to register the document that is kept as a pending document provided the petitioner pays necessary stamp duty and registration charges to the first respondent and thereafter the document shall be released to the petitioner.

10. This writ petition is disposed with above direction. No cost.

-s/d-

Assistant Registrar(CS-)

True Copy

Sub-Assistant Registrar

To:

1.The Sub Registrar,

Pammal,

<https://hcservices.ecourts.gov.in/hcservices/>  
Chennai - 75.

2.The Tahsildar,  
Pallavaram.

+1 cc to Mr.N.Suresh, Advocate,sr.25523.

+1 cc to Government Pleader,sr.25779.

Mr (co)  
krd 25/8

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