

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 3380 of 2018

V.P.Srinivasan

.. Petitioner

Vs.

1. The District Registrar,
District Registrar Officer,
South Chennai,
Chennai - 15.

2. The Sub-Registrar,
Poonamallee Sub-Registrar Officer,
Poonamallee, Chennai - 56.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of mandamus directing the second respondent to return the document i.e., Sale deed dated 06.03.2009 registered as document No.30/2009 in the office of the second respondent to the petitioner.

For Petitioner : Mr. V.Chandraprabhu

For Respondents : Mr. B.Kannan
Government Advocate

सत्यमेव जयते
O R D E R

This writ petition is filed for issuing a writ of mandamus directing the second respondent to return the document namely the sale deed dated 06.03.2009 registered as document No.30/2009 on the file of the second respondent.

2. While hearing the writ petition, it was brought to the notice of this Court that the Registrar has not registered the document and that the document is kept pending since the suit in respect of the property under conveyance is pending. In the counter affidavit filed by the second respondent, referring to Section 52 of the Transfer of Property Act, it is contended by the Sub-Registrar that there is a prohibition under Section 52 of the Transfer of Property Act, to deal with the property during pendency of the suit and therefore, the document is kept pending for registration awaiting adjudication of dispute

by Civil Court. Since sale deed has not yet been registered, it is further contended that there is no question of returning the document.

3. Finding that the respondents have taken a stand which cannot be countenanced in view of the scope of Section 52 of the Transfer of Property Act, as repeatedly held by this Court and Hon'ble Supreme Court, this Court convinced the respondents that pendency of suit does not create a legal bar to register the sale deed.

4. This Court, by order dated 02.03.2021, directed the Sub-Registrar to register the document. Accordingly, the Sub-Registrar vide communication dated 11.03.2021 stated that the document which is kept pending in P.No.30 of 2009 was registered as per the direction of this Court. It is also stated that the document cannot be returned on the ground that the document is under scrutiny for reference under Section 47-(A1) of the Indian Stamp Act. Though the Sub-Registrar has registered the document it is brought to the notice of this Court that the petitioner has to submit the FMB and TOPO sketch for the survey field in which the property is located. Since the Sub-Registrar has registered the document to comply with the direction of this Court earlier, the production of necessary documents like FMB and TOPO Sketch are dispensed with. Hence the petitioner is directed to produce the FMB and TOPO sketch before seeking return of the document in the manner known to law.

5. Recording the submission of the learned Government Advocate appearing for the respondents, this writ petition is closed as infructuous. No costs. Regarding return of document, the Sub Registrar is directed to take a decision one way or other within a period of two weeks from the date of receipt of a copy of this order, on this issue whether to refer the sale deed for under valuation. Since this Court has also given directions in similar cases regarding return of document in respect of matters where reference is pending under Section 47 A of Indian Stamp Act, the Sub-Registrar is directed to act in accordance with the directions of this Court in similar cases as regards the return of the document.

Sd/-

Assistant Registrar (CS-V)

// True Copy //

Sub Assistaant Registrar

bkn

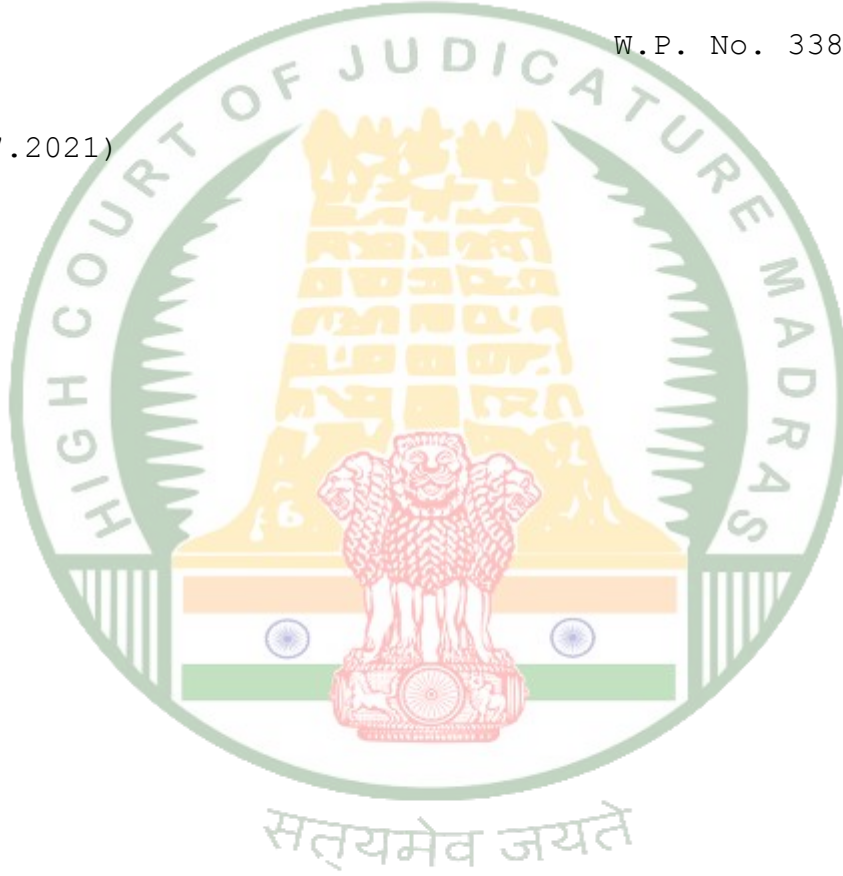
To

1. The District Registrar,
District Registrar Officer,
South Chennai,
Chennai - 15.
2. The Sub-Registrar,
Poonamallee Sub-Registrar Officer,
Poonamallee, Chennai - 56.

+1cc to the Government Pleader, S.R.No.16364

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GPL (CO)
RLP (13.07.2021)



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