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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2021

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THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

W.P. No. 7305 of 2021
and
WMP No.7810 of 2021

R. Vijaykumar

...Petitioner

Vs

1. The Principal Secretary to Government,
Ministry of Defence,
Government of India,
101-A, South Block,
New Delhi 110 011.
2. The Chief Administrative Officer,
43, Wing Air Force,
Sulur, Coimbatore.
3. The District Collector,
Coimbatore District,
Coimbatore.
4. The Sub Registrar,
Sulur,
Coimbatore District

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of declaration to declare that the restriction on alienation regarding registration imposed by the 4th respondent on the petitioner's lands situated at i) S.f.No.297/1, 297/2, 297/3, 297/4, 297/5, 297/6, 298/1A, 298/1B, 314/1A, 314/1B, 314/1C situated at Paruvai Village, Palladam Taluk, Sulur SRO, ii) S.F.No.313/1A, 313/2A situated in Paruvai Village, Palladam Taluk, Sulur, and iii) S.F.No.20/2 at Appanaickenpatti Village, Palladam Taluk, Sulur, SRO citing 3rd respondent communication vide No.13302/2010/E3 dated 09.07.2010 as arbitrary and violative of Articles 14, 21 and 300-A of the Constitution of India .



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For petitioner : Mr. Govind Chandrasekhar
For respondents : Mr. Chandrasekar, CGSC
for R1 & R2

Mr. KMD Muhilan
Government Advocate
for R3 & R4

ORDER

This writ petition has been filed challenging the order passed by the Sub-Registrar/4th respondent refusing to register the sale deed relying upon a communication sent by the District Collector, dated 09.07.2010.

2. The brief facts leading to file the writ petition is as follows:-

The petitioner is the owner of the property in survey Nos.S.f.No.297/1, 297/2, 297/3, 297/4, 297/5, 297/6, 298/1A, 298/1B, 314/1A, 314/1B, 314/1C situated at Paruvai Village, Palladam Taluk, Sulur SRO, ii)S.F.No.313/1A, 313/2A situated in Paruvai Village, Palladam Taluk, Sulur, and iii) S.F.No.20/2 at Appanaickenpatti Village, Palladam Taluk, Sulur. Since the said area comes near the Air Force Station at Sulur, the petitioner sought for a clarification from the Sub-Registrar/4th respondent as to whether the property can be subject for any alienation. On the request of the petitioner, the impugned information has been issued by the Sub-Registrar stating that the survey numbers owned by the petitioner comes under the Air Force Zone and the District Collector, Coimbatore, in and by his proceedings in Na.Ka.13302/2010/E3, dated 09.07.2010 intimated that sale deeds should not be registered.

3. The learned counsel for the petitioner would submit that even though, the properties comes under the Air Force Zone, absolutely, there is no prohibition for transferring property and the restriction is only in respect of putting up any construction without getting permission from the Air Force Authorities. The District Collector has communicated the letter dated 09.07.2010, only based on a letter issued by the 2nd respondent Chief Administrative Officer, Air Force, Sulur, dated 20.04.2010, which is also not prohibiting any alienation of the property in that area.



4. The respondents 1 and 2 filed a counter affidavit, wherein, they have stated that any land falls under the restricted Zone near the Air Force Station, nobody should construct any building or structure or plant tree within 100 meters. The statutory rules issued by the Ministry of Defence, vide its Gazette notification dated 14.02.2007 reads as follows:-

"(a) No building or structure shall be constructed, created or erected or no tree shall be planted on any land within the limits of 100 meters from the crest of the outer parapet of Indian Air Force Stations and Installations as given in the Annexure 'A' to this notification.

(b) No building or structure shall be constructed, created or erected or no tree shall be planted on any land within the limits of 900 meters from the crest of the outer parapet of Indian Air Force Stations and Installations as given in the Annexure 'B' to this notification.

(c) No building or structure shall be constructed, created or erected or no tree shall be planted on any land within the limits of 100 meters from the crest of the outer parapet except that the limit of 100 meters will extend to 900 meters from and in line with the boundary of the bomb dump at Indian Air Force Stations and Installations as given in the Annexure 'C' to this notification.

d. The restrictions imposed by the Government of India in the Ministry of Civil Aviation under Section 9A of the Aircraft Act, 1934 (22 of 1934). Vide its notification Number S.O.988, dated the 5th January, 1988 shall continue to be applicable to the Indian Air Force Aerodromes.

3. For the purpose of this notification, the Air Officer commanding or commanding officer of the concerned Indian Air Force Stations or installations, as the case may be, shall provide all the relevant details including land holdings to the collector for inclusion in the public notice to be given by him under sub-section (2) of Section 3 of the works of defence Act 1903 (7 of 1903) "

The owner of the property has right to sell his property to any one and the above said notification has not restricted the owner



of the land from selling the property. As per the above notification no building or structure shall be constructed or erected or no tree shall be planted on the land within the limits of 100 meters from the crest of the outer parapet of Indian Air Force Station as given in Annexe A1 to the notification.

5. The learned counsel for the respondents 1 and 2 would submit that the Statutory Rules and Orders issued by the Ministry of Defence restricted only the construction of the building and planting of trees without permission of the authorities and there is no restriction for transfer of properties, which falls under the Air Force Zone . He would also submit that the letter said to have issued by the 2nd respondent, dated 20.01.2010, which was referred by the District Collector in and by his proceedings in Circular dated 09.07.2010, is not available with the authority.

6. The learned Government Advocate, appearing for the respondents 3 and 4 would submit that now the Sub-Registrar based on the proceedings issued by the District Collector only informed that the property in and around the Air Force Zone cannot be registered.

7. I have considered the rival submissions and perused the materials available on records carefully.

8. The objection for registering any sale deed is only based on the letter issued by the District Collector, dated 09.07.2010. From a perusal of the circular of the district Collector , dated 09.07.2010, it is seen that the District Collector has referred the proceedings issued by the 2nd respondent/ Chief Administrative Officer, Air Force , Sulur. However, the above said letter is not available with the office of the 2nd respondent. Further in the counter affidavit filed by the respondents 1 and 2, it is clearly stated that the restriction is only for putting up construction or planting of trees without the permission of the Air Force Authorities and there is no prohibition for alienation of the property.

9. In view of the stand taken by the respondents 1 and 2, as there is no prohibition for transferring the property, the 2nd respondent cannot refuse to register any sale deed or any document relating to transfer of property in respect of the lands, which comes under the Air Force Zone, based on the



circular issued by the District Collector. In the said circumstances, the 4th respondent/ Sub-Registrar is directed to register the documents submitted by the petitioner for transferring the property .

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10. With the above directions, this Writ Petition is disposed of. No costs. Consequentially, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VI)

// True Copy//

Sub Assistant Registrar

mrp

To

1. The Principal Secretary to Government,
Ministry of Defence,
Government of India,
101-A, South Block,
New Delhi 110 011.
2. The Chief Administrative Officer,
43, Wing Air Force,
Sulur, Coimbatore.
3. The District Collector,
Coimbatore District,
Coimbatore.
4. The Sub Registrar,
Sulur,
Coimbatore District.

+1cc to Mr.Govind Chandrasekhar, Advocate, S.R.No.35342

+1cc to the Government Pleader, S.R.No.35922

W.P. No. 7305 of 2021

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PVS (CO)
SU(26/08/2021)