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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2021

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.12797 of 2020

K.Jayakrishnan

... Petitioner

vs.

1. The Joint Sub Registrar,
Tindivanam,
Villupuram District.

2.Sasikala

3.Santhi

4.Mala

... Respondents

(R2 to R4 impleaded vide order dated 01.07.2021
made in W.M.P.No.13761 of 2021 in W.P.No.12797
of 2020)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the respondent in RFL/1 of 2020 dated 07.08.2020 and quash the same and consequently direct the respondent to register the sale deed dated 07.08.2020.

For Petitioner : Mr.V.Raghavachari

For R1 : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This writ petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 1st respondent in RFL/1 of 2020 dated 07.08.2020 and quash the same and consequently, to direct the 1st respondent to register the sale deed dated 07.08.2020.

2. The case of the petitioner is that the petitioner is being the owner of the property comprised in S.Nos.10/3A1 and 17/2A1 ad-measuring 0.50 cents and 3.83 acres respectively, situated at Tindivanam Village, developed the same under the



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name and style of 'Jothi Nagar' and sold to several prospective buyers. The petitioner also gifted certain lands to the Commissioner and Special Officer of Tindivanam Town by the Gift Deed dated 22.04.2019 for a common usage purpose. The petitioner executed sale deed in respect of the property ad-measuring to an extent of 1600 sq.ft in Jothi Nagar layout in favour of one V.Kumar and presented the same before the Joint Sub Registrar, Tindivanam for registration on 07.08.2020. However, the Joint Sub Registrar, Tindivanam, by the impugned order in Refusal check slip RFL/1, dated 07.08.2020 return the document for the reason that the counter parties filed suit in O.S.No.319 of 2007 on the file of the learned Additional District Munsif, Tindivanam, for declaration and permanent injunction in respect of the property comprised in S.No.17/2A ad-measuring to an extent of 7.57 acres across T.S.Nos.11/1, 11/2 and 11/3. Therefore, directed the petitioner to get appropriate orders in respect of the property comprised in S.No.10/3A1 ad-measuring 0.50 cents out of total extent of 5.05 acres and the property comprised in S.No.17/2A1 ad-measuring to an extent of 3.83 acres out of total extent of 7.57 acres from the appropriate Court and present the document for registration.

3. Mr.V.Raghavachari, learned counsel for the petitioner submitted that the property which was intended to sell by the petitioner is comprised in S.Nos. 10/3A1 and 17/2A1, whereas the decree obtained by the counter parties in respect of the property comprised in S.No.17/2A across T.S.Nos.11/1, 11/2 and 11/3. Therefore, the decree obtained by the counter parties is no way connected with the subject property.

4. The respondent filed counter affidavit dated 29.10.2020 also revealed that a sale deed dated 07.08.2020 executed by the petitioner in respect of the property ad-measuring to an extent of 1600 sq.ft bearing Plot No.67 in Jothi Nagar layout comprised in S.No.10/3A1, T.S.No.114A1 and S.No.17/2A1, T.S.No.11/2A situated at Tindivanam Village in favour of one V.Kumar and the same was presented by him before the Joint Sub Registrar, Tindivanam for registration on 07.08.2020. Thereafter, one Subbarayan had lodged a protest petition dated 09.07.2020 requesting the 1st respondent not to register any document in S.No.10/3, T.S.No.11/4 and S.No.17/2A, T.S.Nos.11/1,2,3 as they belonged to Subbarayan as per the decree dated 11.01.2018 made in A.S.No.55 of 2012 on the file of the learned Additional Subordinate Judge, Tindivanam and the decree dated 11.04.2017 made in O.S.No.319 of 2017 on the file of the learned Additional District Munsif, Tindivanam, respectively.

5. Further revealed that the copies of the said decrees were also enclosed with the protest petition. The properties of the petitioner are covered under the said decrees. In A.S.No.55



of 2012, the petitioner is not a party but he is a defendant in O.S.No.319/2007. In the suit filed by Mala, Shanthi and Sasikala against their brothers, mother and the petitioner herein in O.S.No.5 of 2004, the petitioner had succeeded by proving his title by sale deed registered as Document No.84/2000. But the property of the petitioner in S.No.10/3, T.S.No.11/4 has been decreed in favour of one Subbarayan in A.S.No.55 of 2012 and the petitioner's property in S.No.17/2A, T.S.Nos.11/1, 2 and 3 has been decreed in favour of the said Subbarayan and 5 others in O.S.No.319 of 2007. Therefore, the ^{1st} respondent could not able to conclude that the petitioner is having title over the property to convey the same.

6. Considering the above, the 1st respondent is directed to verify the records from the Revenue Authorities with regards to the property shown in the sale deed dated 07.08.2020 and decree obtained by the counter parties and after giving opportunity of hearing to them, pass orders either to register or to reject the same, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dm

To

1. The Additional District Munsif, Tindivanam.
2. The Additional Sub Judge, Tindivanam.
3. The Joint Sub Registrar,
Tindivanam,
Villupuram District.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.69173
+1cc to the Government Pleader, S.R.No.69795

W.P.No.12797 of 2020

BS (CO)
CT 06/01/2022