



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2021

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Writ Petition No.23003 of 2018
and W.M.P.No.26904 of 2018

K.Kumar

... Petitioner

-Vs-

1 The Inspector General of Registration
Santhome, Chennai

2 The District Registrar
Guindy Chennai

3 The Joint I Sub Registrar
South Chennai Guindy Chennai

4 M.Ramesh

5 M.Sundarraaj

6 M.Sivarajj ... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the 2nd respondent to consider the petitioners representation dated 28.8.2018.

For Petitioners :Mr.J.Sudhakaran

For Respondents :Mr.Richardson Wilson,
Government Advocate
- for RR 1 to 3
Mr.P.K.Sabapathy - for RR 4 to 6
for Mr.J.Raja Roa

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the 2nd respondent to consider the petitioners representation dated 28.8.2018.

2. The case of the petitioner is that, the petitioner is the owner of the property in Survey No.88, Block No.4 at Ekkattuthangal Village, First Reddy Street, Guindy, Chennai to an extent of 820 Sq.ft.



3. In respect of the said property, the petitioner filed a suit in O.S.No.5009 of 2004 before the City Civil Court seeking for declaratory relief against the deceased Muthu Reddiar and his legal heirs / respondents 4 to 6 herein and the sister of the deceased Muthu Reddiar viz., G.Kullammal. The said suit was decreed and as against the said decree, the defendants therein filed an appeal in A.S.No.494 of 2009 and the same was dismissed by the first appellate Court, as against which a Second Appeal was filed in this Court in S.A.No.162 of 2014, which is said to be pending. During the pendency of the Second Appeal, according to the petitioner, the defendants in the suit partitioned the property in Survey No.88 including the extent of the subject property vide Document No.6008 of 2018 date 14.06.2018 and the same since has been registered in the second respondent office, it is reflected in the Encumbrance Certificate. Therefore, in order to remove such encumbrance in view of the clear decree obtained by the petitioner, concurrently before the first Court as well as first appellate Court, though Second Appeal is stated to be pending before this Court, the petitioner has sent a representation dated 28.08.2018 to the second respondent and since the same has not been considered, he has filed this writ petition with the aforesaid prayer.

4. Heard Mr.J.Sudhakaran, learned counsel for the petitioner, who, after having reiterated the aforesaid facts, seeks the indulgence of this Court for issuance of a direction by way of mandamus as prayed for.

5. Heard Mr.Richardson Wilson, learned Government Advocate appearing for the official respondents, who would submit that, if there is a representation submitted by the petitioner dated 28.08.2018 with regard to the property in question for removal of encumbrance entered already in this regard, the same will be considered after giving an opportunity of being heard to the petitioner as well as the private respondents and accordingly a decision would be taken by the second respondent within a time frame that may be stipulated by this Court.

6. I have heard Mr.P.K.Sabapathy, learned counsel appearing for the private respondents, who would submit that, if at all the representation of the petitioner is directed to be considered by the second respondent, before the same is considered and decided, an opportunity of being heard shall be given to the private respondents also, so that the claim of the private respondents can be put forward before the second respondent for their consideration.

7. I have considered the submissions made by the respective counsel and have perused the materials placed on record.



8. In view of the said submissions made by the respective learned counsel for the parties, where the representation dated 28.08.2018 given by the petitioner is still pending disposal before the second respondent, which the second respondent has to decide in accordance with law, of course after giving an opportunity of being heard to both parties, this Court feels that, a direction can be given to the second respondent to that effect. Accordingly, this writ petition is disposed of with the following directions.

9. That there shall be direction to the second respondent to consider and pass orders on the representation date 28.08.2018 given by the petitioner, after giving notice to both the petitioner as well as the private respondents and after hearing them, an order can be passed on merits and in accordance with law by the second respondent within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

KST

To

- 1 The Inspector General of Registration
Santhome, Chennai
- 2 The District Registrar
Guindy Chennai
- 3 The Joint I Sub Registrar
South Chennai Guindy Chennai

+1cc to Government Pleader SR.No.28146

W.P.No.23003 of 2018

PMK(CO)
GMY(19/07/2021)