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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.18427 of 2021

Mr.D.Vanju Gandhi

... Petitioner

Vs.

1.The Inspector General of Registration,
Registration Department,
Santhome, Chennai - 4.

2.The Joint Sub Registrar - I,
Sub - Registrar Office,
Vellore.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to register the sale deed bearing pending Document No.75 of 2021, dated 16.03.2020 on the file of the Second respondent as a regular document and release the same to the petitioner.

For Petitioner : Mr.M.Venkatakrisnan

For respondents : Mr.K.M.D.Muhilan
Government Advocate

ORDER

The petitioner has filed a mandamus to direct the respondents to register the sale deed pending Document No.75 of 2021, dated 16.03.2020 on the file of the Second respondent as a regular document and release the same to the petitioner.

2.The case of the petitioner is that he entered into an agreement of sale for purchase of a house bearing Door No.38/1, Battai Street situated in Grama Natham Old Survey No.74/1A, New Survey No.411/50, Budur Village and Post, Anaicut Taluk, Vellore District from one S.Arasakumar under a registered sale agreement dated 07.02.2014.



3. According to the petitioner, the said land owner had refused to cooperate for execution and registration of sale deed within the stipulated time and the petitioner was constrained to file a civil suit for specific performance of the registered sale deed dated 07.02.2014 and for permanent injunction restraining the defendant from alienating the property vide O.S.No.1 of 2015 before the Principal Subordinate Judge, Vellore.

4. The petitioner submits that though the defendant had entered appearance through his counsel, the petitioner was set exparte for non filing of written statement within the stipulated time and the learned Principal Subordinate Judge, Vellore by its judgment and decree dated 06.11.2017 decreed the suit directing refund of the advance amount with interest and declined to order specific performance. According to the petitioner, he had preferred first appeal in A.S.No.203 of 2017 before the Principal District Judge, Vellore and the Principal District Judge had allowed the appeal and decreed the suit by granting specific performance of the sale deed dated 07.02.2014 by its judgment and decree dated 02.02.2019.

5. The petitioner further submits that in order to get the sale deed executed, he had filed an execution petition in O.E.P.No.130 of 2019 before the Principal Subordinate Judge, in that case the judgment debtor had entered appearance through his counsel and later was set exparte for non filing of counter. According to the petitioner, the Execution Court on approval of the draft sale deed and on submission of the non judicial stamps executed the sale deed on 16.03.2020 and directed the registry to submit the sale deed for registration before the second respondent.

6. According to the petitioner, due to Covid-19 pandemic and control measures taken by the Government of India, the functioning of the Courts and the various Government Departments were came to standstill or truncated since March 2020. The petitioner submits that since total lock down imposed for the entire nation, the Court staff could not present the said deed on 16.03.2020 before the second respondent within the stipulated time after returning to partial normalcy in the year 2021, registration was fixed on-line and the sale deed submitted before the second respondent on 21.04.2021 for registration, though the second respondent accepted the said sale deed dated 16.03.2020, refused to complete the registration on the ground that there was some delay and kept it pending as Document No.75 of 2021.



7.The petitioner submits that in spite of the written directions issued by the Execution Court to the second respondent, the second respondent refused to complete the registration on the ground that the document was not presented within the time stipulated under Section 23 of the Registration Act, 1908 and delay being more than six months not condonable.

8.Aggrieved by the said refusal of the second respondent, he has put to hardship due to the fact that the second respondent acted with as prejudicial manner and the petitioner has no other alternative remedy and seeks interference of this Court.

9.Heard, the learned counsel for the petitioner and the learned Government Advocate for the respondents and perused the materials available on record.

10.On going through the averments, the petitioner had entered into an agreement of sale and the sale deed was not executed. Hence, the petitioner was constrained to file a civil suit for registration of sale deed dated 07.02.2014 in O.S.No.1 of 2015 before the Principal Subordinate Judge, Vellore, the petitioner was set exparte and the Court only directed to refund of the advance amount with interest and declined to order specific performance. Aggrieved by the same, the petitioner preferred First Appeal in A.S.No.203 of 2017 before the Principal District Judge, Vellore and the Appellate Court considered the petitioner's contention and decreed the appeal suit in favour of the petitioner. After filing OEP execution petition, the petitioner's sale deed has to be presented before 19.03.2020. Due to the national lock down, the said registration could not be completed as all the Government Offices closed. After partial resumption of offices, the petitioner presented the same in the month of April 2021, but the same has not been accepted by the authorities stating that the reason that only 4 months time has been granted for registering the document and as the document cannot be accepted and refused to register the same in spite of being an order passed by the learned Principal Subordinate Judge, Vellore.

11.That being the case, this Court is of the view that the Court has executed the sale deed and only due to pandemic situation they could not produce the same and valid reasons have been stated by the petitioner for not submitting the same for registration by the Court officials, the said case ought to have been considered by the authorities but the authorities failed to consider the same which amounts to prejudice to the petitioner.

12.In view of the above, this Court is of the view that as the reasons stated by the petitioner is accepted by this Court



and this Court is inclined to allow the writ petition by directing the second respondent to register the sale deed presented by condoning the delay within a period of eight weeks from the date of receipt of a copy of this order.

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13. With the above observation and direction, this writ petition is allowed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

pam

To

1. The Inspector General of Registration,
Registration Department,
Santhome, Chennai - 4.

2. The Joint Sub Registrar - I,
Sub - Registrar Office,
Vellore.

+1CC to Mr.M.Venkatakkrishnan, Advocate, Sr.No.44112

+1CC to the Government Pleader, Sr.No.44552

W.P.No.18427 of 2021

GPL (CO)

K.RK. (04.10.2021)