



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.19225 of 2021

K. Rajendiran. ... Petitioner

Versus

1. The District Registrar,
Kallakurichi, Kallakurichi District.
2. The Sub Registrar,
Register Office No.1, Kallakurichi,
Kallakurichi District.
3. The Joint Commissioner,
Hindu Religious Charitable & Endowment Department,
Villupuram.
4. The Assistant Commissioner,
Hindu Religious Charitable & Endowment Department,
Villupuram. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 1st respondent to consider the appeal representation letter dated 29.01.2021 filed by the petitioner and further direct the 2nd respondent to register the court sale deed executed by the learned Principal Subordinate Judge, Kallakurichi.

For Petitioner : Mr. K.S.Ilangovan

For RR 1&2 : Mr.K.M.D. Muhilan,
Government Advocate.

ORDER

This writ petition has been filed for issuance of Writ of Mandamus, directing the 1st respondent to consider the appeal representation dated 29.01.2021 filed by the petitioner and further direct the 2nd respondent to register the Court sale deed executed by the learned Principal Subordinate Judge, Kallakurichi.



2. According to the petitioner, he entered into a sale agreement with the four persons namely (i) Ramasamy Naicker, (ii) Subramaniya Naicker, (iii) Lakshmi and (iv) Periyammal, with regard to Survey Nos.164/B10, 164/B15, 165/14, 165/15, 31/4, 31/5, 47/7, dated 27.07.2015 at K.Mamananthal Village, Kallakurichi Taluk and District and the said sale agreement was registered with the 2nd respondent/Sub Registrar on 27.07.2015 in Document No.1174/2015. Since the above said four persons did not come forward to execute the sale deed in favour of the petitioner, as per the sale agreement dated 27.07.2015. Therefore, the petitioner filed a suit in O.S.No.45/2016 for specific performance before the learned Subordinate Court, Kallakurichi, and the same was decreed in favour of the petitioner by judgment dated 10.06.2016. Thereafter, he has filed an E.P.No.9 of 2018 and subsequently, the Court executed the sale deed in favour of him. When the sale deed was presented before the 2nd respondent/Sub Registrar for registration, the same was refused stating that the Survey No.164/B15 is alone shown in the guideline book issued by the Hindu Religious Charitable and Endowment Department (HR&CE), Villupuram, and also the property belongs to HR&CE Department. Therefore, the second respondent/Sub Registrar passed the impugned order passed on 30.12.2020 and the same was refused to register the Court sale deed executed by the learned Subordinate Judge, Kallakurichi. Hence, he made a representation, dated 29.01.2021 along with all supporting documents before the first respondent, but the respondent has not taken any steps in this regard. Hence, the petitioner has come forward with the present writ petition.

3. The learned counsel appearing for the petitioner would submit that the 2nd respondent/Sub Registrar registered the sale agreement executed between the parties in the same Survey No.164/B15 in Doc.No.1174 of 2015 dated 27.07.2015, then why do not they refuse to register the Court sale deed executed by the learned Subordinate Court of Kallakurichi. He would further submit that due to mistake in the guideline book of 2nd respondent and all other Revenue Records in favour of Vendors, the petitioner was affected and the said property in Survey No.164/B15 is not belongs to HR & CE Department. He would further submit that the act of the 2nd respondent is in violation of Section 31(2) of the Specific Relief Act, 1963 and the respondents herein had clearly violated the fundamental rights of the petitioner and violated Article 14, 300A of the Indian Constitution. Hence, the petitioner will be put to irreparable loss and great hardship if the 2nd respondent has not been registered the Court sale deed executed by the learned Subordinate Judge, Kallakurichi.



4. The learned counsel appearing for the respondents would submit that the HR & CE Department is not a party in the writ petition and the said sale agreement executed between the parties in S.No.164/B15 in Doc. No.1174/2015, dated 27.07.2015 was originally belonged to the HR & CE Department. He would further submit that the respondents had requested the HR&CE Department to issue No Objection Certificate with regard to register the Court sale deed executed by the learned Subordinate Judge, Kallakurichi and the same was pending. He would further submit that the representation of the petitioner will be considered and pass appropriate orders on merits without due process of law after obtaining No Objection Certificate from the HR & CE Department.

5. Heard both sides and perused the materials placed on record.

6. Having regard to the limited scope of the prayer that is now sought for in this writ petition before this Court and taking into account the submissions made on either side, without expressing any opinion on the merits of the petitioner's representation or the case pleaded by the petitioner in the present writ petition, the Writ Petition is disposed of, with a direction to the 1st respondent to consider the petitioner's representation dated 29.01.2021 and pass appropriate orders, on merits and in accordance with law, after issuing notice to the petitioner and the respondents/HR&CE Department within a period of sixteen weeks from the date of receipt of a copy of this order. No costs.

Gba/msm

-Sd/-
Assistant Registrar

TRUE COPY

Sub-Assistant Registrar

To

1. The District Registrar,
Kallakurichi, Kallakurichi District.
2. The Sub Registrar,
Register Office No.1, Kallakurichi,
Kallakurichi District.



WEB COPY

3. The Joint Commissioner,
Hindu Religious Charitable & Endowment Department,
Villupuram.

4. The Assistant Commissioner,
Hindu Religious Charitable & Endowment Department,
Villupuram

+1 CC to Government Pleader, High Court, Madras SR.No.46486

+1 CC to Spl.Govt. Pleader (HR & CE), High Court, Madras
SR.No.46582

+1 CC to MR.S.RAMAJAYAM, Advocate SR.No.46035

W.P.No.19225 of 2021

AK-II(CO)
GS(20/10/2021)