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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P. No.18540 of 2020
& W.M.P.No.22984 of 2020

Hemalatha

... Petitioner

-Vs-

1. The Sub Registrar,
Sowcarpet,
Davidson Street,
Chennai 600 001.
2. The Executive Officer,
Sri Chennai Malleeswara and
Chennakesavalu Devasthanam Temple,
N.S.C.Bose Road,
Chennai - 600 001.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the first respondent to register the document P-33/2010 and to assign regular number forthwith and release the same without insisting for an No objection Certificate from the temple authorities.

For Petitioner : Mr.R.Priyakumar

For Respondents

For R1 : Mr.Yogesh Kannadasan
Special Government Pleader

For R2 : Mr.V.Guhan

ORDER

The Writ Petition has been filed to direct the first respondent to register the document P-33/2010 and to assign regular number forthwith and release the same without insisting for an No objection Certificate from the temple authorities.

2. The case of the petitioner is that she has lease hold right over the property bearing Municipal Door No.12, Perumal Koil Garden, 6th land, Old Door No.11/12, Sowcarpet, George Town,



Chennai. Originally, the said property owned by the second respondent and the super structure built on the said property owned by G.Kondamma and G.Srinivasulu. They had purchased the said super structure from G.Ramamuthy and G.Jayamma by the registered sale deed dated 09.12.1992 vide document No.978 of 1992. In turn, the petitioner purchased the said super structure from the said G.Kondamma & G.Srinivasulu and presented the sale deed for registration before the second respondent. However, the said sale deed was kept pending as document No.33 of 2010 without registering the same. Hence, the petitioner filed this present Writ Petition with the above said prayer.

3. Heard Mr.R.Priyakumar, learned counsel appearing for the petitioner, Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the first respondent and Mr.V.Guhan, learned counsel appearing for the second respondent.

4. The learned counsel appearing for the petitioner relied upon the order dated 16.02.2015 passed by this Court in W.P.No.23459 of 2015, in the case of B.Dhandapani Vs. The Sub Registrar & anr., in which, this Court passed order in the similarly placed matter, by relying upon the order dated 21.03.2013 passed by the Hon'ble Division Bench of this Court in W.A.No.193 of 2013, which held as follows :-

"5. The Honourable First Bench of this Court, following the decision of the Honourable Supreme Court, disposed of the Writ Appeal by passing the following order:-

This writ appeal is filed against the order passed by the learned Single Judge in W.P.No.22693 of 2010 dated 12.7.2012 wherein the appellant has prayed for the issuance of a writ of Mandamus directing the second and third respondents to register and return the document No.P.200800019 dated 27.3.2008 bearing Receipt No.738 to the petitioner without insisting upon any No Objection Certificate".

2. The appellant has purchased only a superstructure which was put up on the land owned by Arulmighu Parthasarathy Temple, Triplicane. The grievance of the appellant is that she is having right over the superstructure, for which a document is sought to be registered, without any claim over the land owned by the temple and the registering authority is insisting to get 'No Objection' from the temple for registration.



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3. The same issue was considered by the Honourable Apex Court in State of Rajasthan and others Vs. Basant Nahata reported in 2005 (4) CT 606 which was followed by the Division Bench of this Court in W.A.No.1923 of 2005 dated 16.11.2005 and various orders were passed by this Court to register the document presented for registration of the superstructure alone, without insisting for "No Objection Certificate" from the temple authorities.

4. The appellant also filed an affidavit of undertaking before this court stating that she will not claim any lease hold right based on the document, if registered. The undertaking given by the appellant is to make necessary correction in the sale deed only for superstructure. The said undertaking in the memo filed by the learned counsel for the appellant is recorded. Following the above said Judgement, we allow the writ appeal with a direction to the third respondent to register the document presented by the appellant without insisting for "No Objection Certificate" from the temple authority. We make it clear that this order shall not be treated as conferring title to the appellant in any further proceedings. No costs."

5. In the light of the above judgment, the first respondent is directed to register and release the sale deed dated 21.05.2010, pending in document No.33 of 2010 without insisting issuance of No Objection Certificate from the second respondent, within in a period of two weeks from the date of receipt of a copy of this Order. It is made clear that the registration of sale deed does not confer any title on the petition over the property except the super structure.

6. With the above directions, the Writ Petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS IV)

True Copy//

Sub Assistant Registrar



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+1cc to M/s.R.Priyakumar, Advocate, S.R.No.59125
+1cc to the Government Pleader, S.R.No.59811

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NSK 06/12/2021