



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.11.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.Nos.21145, 21147 and 21149 of 2021

M/s. Sri Lakshmi Ammal Educational Trust,
Represented by its Trustee, Mr. J. Sundeeep Anand,
Having its registered office at,
No.29, Tilak Street, T. Nagar,
Chennai - 600 017

.... Petitioner
(In W.P. No.21145 of 2021)

M/s. The Chrome Leather Company Limited,
Represented by its Vice-President
G. Vairakumar,
No.7, Works Road, Chrompet,
Chennai - 600 044.

... Petitioner
(In W.P.Nos.21147 & 21149 of 2021)

Vs.

The Sub-Registrar,
Pallavaram,
Chennai.

... Respondent
(In All Writ petitions)

Common Prayer: These Writ Petitions are filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to release the Rectification Deed, which was presented for registration on 29.10.2020 by the petitioners herein, kept by the respondent herein in pending document Nos.P/Pallavaram/169/2020, P/Pallavaram/170/2020 and P/Pallavaram/171/2020 within the time frame as fixed by this Hon'ble High Court and pass orders accordingly.

For Petitioners in All: Mr.N.R.Elango, Sr. Advocate
(For M/s.Aswinprasana)

For Respondent in All : Mr.V. Veluchamy
(Government Advocate)

COMMON ORDER

These Writ Petitions are filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the Sub-Registrar/the respondent herein to release the Rectification Deed, which was presented for registration on 29.10.2020 by the petitioners herein, kept by the respondent herein in pending document Nos.P/Pallavaram/169/2020, P/Pallavaram/170/2020 and



P/Pallavaram/171/2020 within the time frame as fixed by this Hon'ble High Court and pass orders accordingly.

2. The case of the petitioners is that the Petitioner in W.P.No.21145 of 2021 namely, M/s. Sri Lakshmi Ammal Educational Trust, who is a Educational Trustee had got leasehold right over the properties of M/s.The Chrome Leather Company Limited who is the petitioner in W.P.Nos.21147 and 21149 of 2021 by means of two registered Lease Deeds dated 22.12.1998 under Document Nos.2854 & 2855 of 1998 on the file of SRO, Pammal. The aforesaid M/s.Chrome Leather Company Limited was incorporated under the Indian Companies Act, 1913. It had purchased substantial properties on 14.03.1944 by means of a Registered Sale Deed under Document No.530 of 1944. The erstwhile management of the Petitioner-Company had come into the hands of Mrs. Ida L Chambers, wife of Late Mr. George Alexander Chambers by virtue of a Compromise Decree dated 19-02-1965 in C.S.46 of 1963 on the file of this Hon'ble Court. Mrs.Ida L Chambers entered into an agreement on 21.04.1965 with N.Nagappa Chettiar for selling the shares of the Petitioner-Company and thereafter, the shares had also been sold and the same had also been affirmed by Mrs. Ida L Chambers herself in a Counter affidavit sworn by her in Application No.2297 of 1965 in C.S.46 of 1963.

(2.1) The Management under A.Nagappa Chettiar had pledged the shares of the Petitioner-Company with the Central Bank of India. Upon default in repayment of loan, the Central Bank of India filed a Civil Suit for recovery against the Petitioner-Company in O.S.314 of 1980 and preliminary decree and final decree had been passed in favour of the Central Bank of India. The properties owned by the Petitioner-Company had also been mentioned in the decree passed in O.S.No.314 of 1980. Thereafter, the petitioner-Company was referred to BIFR and later on, the Central Bank of India floated a Tender for selling the shares of the Petitioner-Company. Upon successful bid and transfer of shares, the present Management has taken charge of the Petitioner-Company. The Petitioner-Company remains the owner of the immovable properties in various survey numbers at Zamin Pallavaram Village, Pallavaram Taluk.

(2.2). The Petitioner-Company has leased out certain properties to M/s. Sri Lakshmi Ammal Educational Trust by means of a Registered Lease Deed dated 22.12.1998 under Document Nos. 2854 and 2855 of 1998 on the file of SRO, Pammal. The aforesaid Lease is for a period of 99 years and the said Lease is still in force. The aforesaid Lease has been taken by M/s. Sri Lakshmi Ammal Educational Trust for the purpose of running educational institutions and now there are educational institutions in the leasehold properties and the Lessee is in possession of the same. In pursuance of the Lease Deed dated 22.12.1998, the Lessee M/s.Lakshmi Ammal Educational Trust has leased out the



properties to M/s.Bharath Institute of Higher Education Research, a society registered under the Tamil Nadu Societies Registration Act, in the year 2009, under Document No.724 of 2010 on the file of SRO, Pallavaram. M/s.Bharath Institute of Higher Education and Research has been recognized as Deemed to be University as per section 3 of the UGC Act and under its control several educational institutions are functioning in the leasehold properties.

(2.3).The title and possession of the Petitioner-Company had also been affirmed by this Hon'ble Court in W.P.Nos.33248 and 33249 of 2007 vide order dated 01.02.2008 in a proceeding against the rival complaint of the Petitioner-Company. Further, the rival claim has also been dismissed by this Hon'ble Court in Application No.3899 of 2007 in O.P.No.178 of 1969 vide order dated 08-07-2008. As such, the possession and title of the Petitioner-Company has been continuously recognized by this Hon'ble Court in various proceedings. Further, the aforesaid rival claimants had also initiated false criminal complaints against the erstwhile Director of the Petitioner-Company in Crime Nos.304 and 305 of 2007 on the file of City Crime Branch X, Chennai. After investigation, the CCB has closed the FIR as Mistake of Fact and the same had also been recorded before the Judicial Magistrate No.1, Poonamallee and though a protest petition has been filed and the same was also dismissed. Later on, upon a political mala-fide, the aforesaid case was reopened with new Crime Nos.2 and 3 of 2016 and investigation transferred to CBCID, Chennai and the said cases are pending.

(2.4) As against the aforesaid FIRs, the erstwhile Director of the Company, has filed Crl.O.P. No.12985 and 12986 of 2020 before this Hon'ble Court to quash the FIR wherein this Hon'ble Court has granted interim reliefs and the said quash petitions are pending for adjudication.

(2.5) In the meanwhile, in the month of September, 2020, during the internal legal audit, the Petitioner-Company has found certain typographical error and mistakes in the sub-division numbers and extent in some cases in the Lease Deed dated 22.12.1998. It has also been ascertained that such mistake crept in view of the relying of entire schedule properties as mentioned in O.S.No.314 of 1980. Though there are some mistakes in the sub-division numbers, extents of properties, there is a consensus-ad-idem between the Petitioner-Company and the Lessee regarding the identity of the properties. After ascertaining such mistakes, the Petitioner-Company has decided to execute a Rectification Deed to the Lease Deed dated 22.12.1998 so as to correct the errors crept while executing the Lease Deed dated 22.12.1998. In view of the changes in the Lease Deed on 22.12.1998, the Petitioner-Educational Trust has also decided to



execute a Rectification Deed in favour of Bharath Institutes of Higher Education and Research. Accordingly, the Petitioner-company and the Petitioner-Educational Trust have executed a Rectification Deed on 29.10.2020 in the terms as executed herein before and paid the stamp duty in proper and presented the Rectification Deed to the Respondent for registration. Even though the Petitioner Company has complied with all the formalities required for registration and paid the stamp duty and registration charges for the Rectification Deed, upon receipt of the Rectification Deed dated 29.10.2020, the Respondent has kept the Rectification Deed as pending document in Pending Document Nos. P/Pallavaram/169/2020 P/Pallavaram/170/2020 and P/Pallavaram/171/2020 under Receipt Nos.10750/2020 10751/2020 and 10752/2020 dated 29-10-2020 with a specific note that time is required for analyzing the Rectification Deed and hence the Rectification Deed is kept pending. Despite the Petitioner-Company and the Petitioner-Educational Trust have approached several occasion for getting the said Rectification Deeds. But the same has been postponed by the Respondent without assigning any reasons. The Petitioners have also bonafidely waited for release of the document, but no fruitful reply had been given by the respondent. Even after the lapse of almost one year, the respondent herein has retained the Rectification Deeds without any progress. Hence, the petitioners have filed the present Writ petitions for releasing the same within a time frame as fixed by this Court.

3. The learned counsel for the petitioner would submit that the petitioners are unable to get their own document within a reasonable time even after the entire payment was made as required under Law while there is no dispute with regard to the execution of Rectification Deed. After registration of the Rectification Deed, the Respondent has no right to retain the documents as per the provisions of the Registration Act. It is also needless to mention that the Rectification Deed has not impounded under the Stamp Act. Further, it is only a Rectification Deed to the Lease Deed in respect of Educational Institutions entered into between the Lessor and Lessee.

4. It has been further submitted that the Registrar has no right to retain the document after completion of the Registration and time and again, this Hon'ble Court has issued directions in this regard in various cases. As such, the act of retaining the Rectification Deed by the Respondent is nothing but illegal.

5. To support on his contentions, the learned counsel for the petitioners has placed reliance on Judgment of this Court reported in 2003-3-MLJ Page 645 wherein it has been held as



follows:

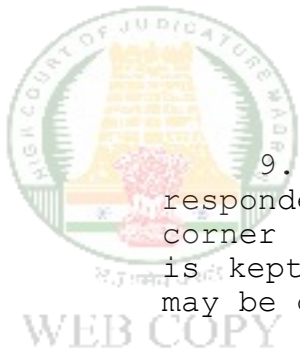
"8. When the document has been registered on payment of stamp duty, there is no power for the Registering Authority to retain the document"

As such, the Respondent has no power to retain the document of the petitioners that too without taking any decision upon the Rectification Deed presented by them for registration.

6. The learned counsel for the petitioner would further submit that the Petitioner-Company and the Petitioner-Educational Trust -Lessee had filed a suit in C.S.No.422 of 2015 before this Hon'ble Court for damages and for the relief of permanent injunction. The aforesaid suit is posted for evidence. Since there is alteration in the schedule of properties to the Lease Deed by way of Rectification Deed, the Petitioner-Company is in a position to amend the plaint in C.S.No.422 of 2015 for the purpose of proceeding with the case and for the purpose of seeking amendment, the registered Rectification Deed is very much necessary. All the requests of the Petitioners with the Respondent are ended in vain and no reply has been given by the Respondent.

7. The learned counsel would further submit that Rule 102 of Registration Rules prescribe that "A Document shall, if possible, be returned on the date of its admission to Registration". As such, it is obligatory on the part of the respondent to return the documents immediately upon registration. Further, Rule 106 stipulates that Registering Officer can retain the document only if he satisfies that any person has applied to the competent Court for an injunction to restrain the Registering officer from returning the document. In the case on hand, no suit or any proceedings had been initiated objecting the return of document from any corner. So, there is absolutely no lawful prohibition for the Respondent in returning the Rectification Deed to the Petitioners herein.

8. It has been further submitted that the Respondent, being the Statutory Authority, is duty bound to release the Rectification Deed immediately upon registration by complying the provisions of Registration Rules and keeping the document as pending one for more than one year in denial of justice to the Petitioner. In view of such urgency, the Petitioners are left with no other option except to approach this Hon'ble Court by invoking jurisdiction under Article 226 of Constitution of India seeking for issuance of Writ of Mandamus directing the respondent herein to release the Rectification Deeds which were presented for registration on 29.10.2020 by the petitioners herein before the respondent which were kept in Pending Document Nos. P/Pallavaram/169/2020, P/Pallavaram/170/2020, and P/Pallavaram/171/2020 within a time frame as fixed by this Court.



9. The learned Government Advocate appearing for the respondent would submit that if there is no objection from any corner to release the Rectification Deed and the said document is kept pending for more than nearly one year, the respondent may be directed to release the document in accordance with Law.

10. Heard the learned counsel for the petitioners and the learned counsel for the respondent as well as perused the material available on records.

11. Having considered the facts and circumstances of the case and submissions of the learned counsel on either side, it is admitted fact that where a document has already been registered, the respondent becomes the functus officio and thereafter, such a registered document can never be retained by the respondent. At the same time, while there is consensus arises between the parties, there cannot be any denial of releasing the said document. Hence, the said petitioners are at liberty to get a Rectification deed which was rectified the typographical error found in the document.

12. Further, the learned counsel for the petitioner has placed reliance of the Judgments passed by this Court in W.P.No.19008 of 1999 and W.P.(MD) No.11997 of 2021. In the decision reported in 2003-3-MLJ page 645 it was held as follows:

"8. When the document has been registered on payment of stamp duty, there is no power for the registering authority to retain the document. If the property does not belong to the vendor who executed the sale deed and it belongs to someone else, the real owner may file a suit, before the appropriate court, to set aside the document. Further by any deed of conveyance executed by a person who had no right over the property that is conveyed, no right is conveyed. In such cases, the purchaser takes the risk of losing his money. But on that ground the registering authority or the Collector cannot refuse to return the document registered. The action of the respondent in refusing to release the document on the ground that the sale deed was executed by the person who was not the real owner is not legally sustainable. It is not for the registering authority to verify as to whether the vendor in the sale deed has a right to convey the property mentioned therein. Therefore the action of the respondents is not legal. It is nothing but highhandedness on the part of the respondents. The respondents have no right whatsoever to retain the document when once it has been registered in accordance with the Rules".



and in the decision in W.P. (MD) No.11997 of 2021, it has been held as follows:

"6. In the considered view of this Court, mere pendency of a Criminal case can never be a ground for insisting for a "No Objection" Certificate. That apart, where a document has already been registered, the respondent becomes the functus officio and thereafter, such a registered document can never be retained by the respondent. The law on this issue is well settled."

Further, the petitioner-company filed a suit in O.S. No.422 of 2015 before this Court for damages and relief of permanent injunction and the aforesaid suit is pending for Trial and recording of evidence. Since there is alteration in the schedule of properties to the Lease Deed by way of Rectification Deed, the Parties are in a position to amend the plaint in C.S.No.422 of 2015 for the purpose of proceeding with the case and for the purpose of seeking amendment, the registered Rectification Deed is very much necessary.

13. In view of the aforesaid observations and discussions, this Court directs the respondent to release the Rectification Deed which was presented for registration on 29.10.2020 by the petitioners herein within a period of two weeks from the date of receipt of copy of this order.

14. In the result, the Writ Petitions are disposed of accordingly. Consequently, connected miscellaneous petitions are closed if any. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

Lbm

To:

The Sub-Registrar,
Pallavaram, Chennai.

+3cc to Mr.Aswin Prasanna, Advocate, S.R.No.56993

W.P.Nos.21145, 21147 and 21149 of 2021

EV(CO)
SB(23/11/2021)