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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.22407 & 25227 of 2021
W.M.P.Nos.23652 & 26600 of 2021

K.V.Jayaraman

...Petitioner in both WPs.

-Vs-

1.The Inspector General of Registration,
No.100, Santhom High Road,
Chennai - 600 028.

2.The Sub Registrar,
Konnur Sub Registrar Office,
Konnur High Road,
South Thirumalai Nagar,
Villivakkam,
Chennai - 600 049.

3.The Sub Registrar,
Velacheri Sub Registrar Office,
No.36, Orandiamman Koil Street,
Near Police Station, Velacheri,
Chennai - 600 042.

4.The Tamil Nadu Housing Board,
CMDA Compex, E & C Markey Road,
Koyambedu, Chennai - 600 107.
(R4 impleaded as per the order
dated 21.12.2021 made in
W.M.P.Nos.28509 & 28510
of 2021 in W.P.Nos.22407 &
25227 of 2021)

...Respondents in both W.Ps.

Common Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records with the second respondent pertaining to the entry made as Document Nos.6 &5 of 2021 in the encumbrance certificate pertaining to the subject matter of property situated in S.F.No.604 & 605 respectively, of Mogapair Village, Saidapet Taluk, Thiruvallur District ad measuring an extent of 0.44 & 2.61 Acres respectively, belonging to the petitioner absolutely and quash the same with a direction to the second respondent to remove the aforesaid entry.



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For Petitioner in
both WPs : Mr.AR.L.Sundaresan
Senior Counsel
For Mr.A.Parthasarathy

For Respondents in
both WPs. : Mr.Yogesh Kannadasan
Special Government Pleader

COMMON ORDER

These Writ Petitions have been filed to call for the records with the second respondent pertaining to the entry made as Document Nos.6 & 5 of 2021 in the encumbrance certificate pertaining to the subject matter of property situated in S.F.No.604 & 605 respectively, of Mogapair Village, Saidapet Taluk, Thiruvallur District admeasuring an extent of 0.44 & 2.61 Acres respectively, belonging to the petitioner absolutely and quash the same with a direction to the second respondent to remove the aforesaid entry.

2. The case of the petitioner is that the petitioner purchased the lands comprised in S.F.No.604 ad measuring 44 cents and S.F.No.605 ad measuring 2.61 acres situated at Mogapair Village, Chennai, by two sale deeds registered vide document Nos.6551 & 6552 of 2017. The said properties were already acquired by the fourth respondent in the year 1975, which was confirmed by the Hon'ble Supreme Court of India, in the year 1999. However, the fourth respondent has not used the lands acquired. As such, the land owners jointly filed a Writ Petition in W.P.No.22974 of 2010 before this Court and this Court disposed the Writ Petition with the following directions :-

"16. However, since it is the stand of the respondents that the scheme is under progress and they are seeking approval, which is pending with the CDMA, the Housing Board is directed to take steps to get appropriate orders from the CMDA within a maximum period of six months from the date of receipt of copy of the order. In the event of CMDA not granting the approval for utilising that land in question for residential plots with car parking, then the request of the petitioners has to be considered in terms of the Honourable Apex Court's order dated 08.10.1999. In the event of the CMDA granting approval, the question of re-conveyance does not arise. However, they



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cannot go on postpone this on one ground or another inventing new public purpose to reject the claim of the petitioners in view of the Apex Court's order especially in the case reported in 2010 (2) CTC 336. Apart from this, when other adjoining lands has been released, the petitioners alone cannot be singled out and different treatment cannot be extended to the petitioners as in my opinion this will to clear discrimination in view of the above referred Honourable Apex Court's judgment reported in 2010 (2) CTC 336."

3. In the year 2014, once again the land owners filed another Writ Petition in W.P.No.22934 of 2014 and the same was allowed by an order dated 06.11.2014, thereby releasing the subject lands from the acquisition proceedings. After perusal of necessary documents and obtaining legal opinion, the petitioner purchased the property on 19.10.2015 and presented the sale deeds for registration. However, the sale deeds were kept pending as document Nos.P95 & P96 of 2015 for clarification with regard to subsisting acquisition or encumbrance if any.

4. While pending registration of those documents, the fourth respondent filed Writ Appeals in W.A.Nos.184 & 329 of 2015 etc., and the same was also dismissed by the Hon'ble Division Bench of this Court by an order dated 09.02.2016. After dismissal of the Writ Appeal and on receipt of the opinion from the Government Pleader, the third respondent registered the sale deeds vide document Nos.6551 & 6552 of 2017. Thereafter on 27.09.2021, the petitioner applied for encumbrance certificate in respect of the subject property and came to understand that on receipt of the letter from the first respondent, the impugned endorsement has been made in the encumbrance stating that in respect of the subject property, there is a case pending before this Court and no further deed of conveyance can be registered. Hence, the petitioner filed the present Writ Petitions with the above said prayer.

5. The learned Senior Counsel appearing for the petitioner submitted that as against the order passed by the Hon'ble Division Bench of this Court in W.A.Nos.184 & 329 of 2015 etc., no appeal has been preferred by the fourth respondent or no review has been filed as against the said order, till today. In fact, after dismissal of the Writ Appeals and on receipt of the legal opinion from the Government Pleader, the third respondent registered the documents and released the same in favour of the petitioner.



6. While being so, on receipt of the letter from the first respondent dated 01.08.2021, the second respondent registered vide document Nos.5 & 6 of 2021 as that no deed of conveyance can be registered in respect of the subject property for the reason that, in respect of the property the fourth respondent filed case before this Court. Mere on the request made by the fourth respondent, the first respondent has no authority to send letter dated 01.08.2021 to the second respondent. That apart, without instruction of the first respondent, the letter has been registered and made remarks in the encumbrance in respect of the subject property. Therefore, he prayed for necessary direction in the present Writ Petitions.

7. Heard Mr.AR.L.Sundaresan, learned Senior Counsel appearing for the petitioner, Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents in both Writ Petitions.

8. Admittedly, the subject lands were released by this Court in the order passed in W.P.No.27934 of 2014 and declared that the acquisition proceedings initiated under the Act, in respect of the land to an extent of 44 cents comprised in S.F.No.604 and the order passed in W.P.No.23698 of 2014 in respect of the land to an extent of 2.61 acres comprised in S.F.No.605 situated at Mogappair Village, Saidapet Taluk, Thiruvallur District, have lapsed in view of the Section 24(2) of the new Act. The orders passed by the learned single Judge in both Writ Petitions have been confirmed in W.A.Nos.184 & 329 of 2015 etc., by an order dated 09.02.2016. The fourth respondent neither preferred any appeal before the Hon'ble Supreme Court of India nor filed any revision in the Writ Appeals. Subsequently, the sale deeds which were presented by the petitioner for registration were registered in document Nos. 6551 & 6552 of 2017 and released in favour of the petitioner.

9. While being so, on receipt of the letter from the fourth respondent, the first respondent without even conducting any enquiry and without any notice to the petitioner mechanically sent communication to the second respondent and on receipt of the same, without any request made by the first respondent, the second respondent also registered the same vide document Nos.5 & 6 of 2021. Therefore, the impugned endorsement cannot be sustainable and is liable to be quashed.

10. In view of the above, the impugned endorsement in document Nos.5&6 of 2021 in the encumbrance certificate pertaining to the subject matter of property situated in S.F.No.604 & 605 respectively, of Mogappair Village, Saidapet Taluk, Thiruvallur District ad measuring an extent of 0.44 & 2.61 Acres respectively, is hereby quashed. The second



respondent is directed to remove the endorsement made in respect of the land comprised in S.F.No.604 & 605 respectively, situated at Mogapair Village, Saidapet Taluk, Thiruvallur District, forthwith.

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11. Accordingly, both the Writ Petitions are allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

Sd/-
Deputy Registrar

// True Copy //

Sub Assistant Registrar

rts

To

1.The Inspector General of Registration,
No.100, Santhom High Road,
Chennai - 600 028.

2.The Sub Registrar,
Konnur Sub Registrar Office,
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Near Police Station, Velacheri,
Chennai - 600 042.

4.The Tamil Nadu Housing Board,
CMDA Compex, E & C Markey Road,
Koyambedu, Chennai - 600 107.

+1cc to M/s.A.Parthasarathy, Advocate SR.No.68917

+1cc to the Special Government Pleader Sr.No.69525

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W.M.P.Nos.23652 & 26600 of 2021

RP(CO)
RVM(21/01/2022)