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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) No.7993 of 2021

and W.M.P. (MD) Nos.6102 of 2021

(Through Video Conference)

Baggiyavathi Nesa Regina

...Petitioner

Vs.

1) The District Registrar,
Karaikudi, Sivagangai District.

2) The Sub Registrar,
Tirupattur, Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to impugned order in Na.Ka.No.222/A1/2021 dated 9/4/2021 of the 1st respondent confirming the impugned order dated 16.08.2019 of the the 2nd respondent herein and consequently direct the respondents herein register the settlement deed document pertaining to plot no 14 in GR survey No.268/3 (old survey No.268/1) in S.M. Hospital compound, Tirupattur, Sivagangai District in the light of order dated 18.9.2015 in W.P.(MD) No.15416 of 2015 and order dated 26.4.2019 in W.P (MD) No.21937 of 2018.

For Petitioner : Mr.T. Pon Ramkumar

For Respondents : Mr.M.Lingadurai,
Government Advocate (Civil)

O R D E R

This Writ Petition has been filed challenging the impugned order passed by the first respondent confirming the decision taken by the second respondent not to register the document presented by the petitioner.

2. The case of the petitioner is that the property originally belonged to Tamil Evangelical Luthern Church (hereinafter referred as 'T.E.L.C.'). Due to financial constraints faced by the Church, they decided to sell the property. The subject property in Plot No.14 was purchased by the husband of the petitioner through a registered sale deed dated 30.04.2004. The further case of the petitioner is that a patta was also granted in the name of her husband in Patta No.633. The petitioner wanted to settle the property in favour of her daughters and hence, executed a settlement deed with respect to Plot No.14 on 15.07.2019 and presented the same



for registration before the second respondent.

3. The second respondent refused to register the documents and passed an order on 16.08.2019. The order was passed based on the order passed by the Hon'ble Division Bench of this Court dated 04.05.2017 and the subsequent circular issued by the Inspector General of Registration dated 4.05.2017. Aggrieved by the same, an Appeal was filed before the first respondent and by virtue of the impugned order, the first respondent also confirmed the order passed by the second respondent. Aggrieved by the same, the present writ petition has been filed before this Court.

4. Heard Mr.T. Pon Ramkumar, learned counsel for the petitioner and Mr.M.Lingadurai, learned Government Advocate (Civil) appearing for the respondents.

5. Learned counsel for the petitioner submitted that the order passed by the Hon'ble Division Bench cannot relate back to all the past transactions that took place many years before and it only prohibited the future transactions of the properties belonging to T.E.L.C. The learned counsel further submitted that the respondents had mechanically applied the order of the Hon'ble Division Bench and the subsequent circular issued by the Inspector General of Registration and denied registration of documents.

6. The learned counsel for the petitioner also brought to the notice of this Court the earlier order passed by this Court in W.P. (MD) No.21937 of 2018 wherein, a person who is similarly placed like the petitioner, had approached this Court and this Court had directed the Sub Registrar to entertain the document, if it is otherwise in order. The learned counsel, therefore, submitted that the same relief will also enure to the benefit of the petitioner and the petitioner cannot be denied registration of the documents.

7. The learned Government Advocate (Civil) appearing on behalf of the respondents submitted that the respondents had merely relied upon the Circular issued by the Inspector General of Registration and whatever properties that belonged to the T.E.L.C. was restrained from being entertained for registration. The learned counsel further submitted that the petitioner also falls within the same parameters as that of the petitioner in W.P.(MD) No.21937 of 2018 and the claim made by the petitioner will be considered by the respondents.

8. In the present case, the property has been dealt with from the year 2004 onwards and the petitioner is in possession and enjoyment of the same and a patta has also been issued in the name of the petitioner. Taking into consideration the fact that the transaction had taken place many years ago and the subsequent order of the Hon'ble Division Bench and the consequent Circular issued by



the Inspector General of Registration cannot relate back to past transactions and a stand was taken to that effect in the earlier writ petition and this Court passed an order on 26.04.2018 permitting the registration of the documents, the same benefit will also enure in favour of the petitioner.

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9. In view of the above discussion, there shall be a direction to the second respondent to entertain the documents presented for registration by the petitioner, it is otherwise in order and if the necessary stamp duty and registration charges are paid. The documents shall be released after registration.

10. The impugned order passed by the respondents in Na.Ka. No.222/A1/2021 dated 9.04.2021 is set aside with the above directions and accordingly, this Writ Petition is allowed. No costs. Consequently, connected W.M.P.(MD) Nos.6102 of 2021 is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1) The District Registrar,
Karaikudi, Sivagangai District.
- 2) The Sub Registrar,
Tirupattur, Sivagangai District.

+2 CC to M/s.T.PON RAMKUMAR, Advocate SR-19417[F] dated 16/06/2021
+1 CC to M/s.SPL GP (SR-19520[F] dated 17/06/2021)

Order made in

W.P. (MD) No.7993 of 2021

TR(25.06.2021) 3P 6C