



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2021

CORAM

THE HON'BLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P.(MD)No.13528 of 2021

and

W.M.P(MD) .No.10487 of 2021

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Mayilraj

... Petitioner

Vs.

1. The District Registrar,
Office of the District Registrar,
Cheranmahadevi.

2. The Sub-Registrar,
Sub-Registrar Office,
Kadayam, Tenkasi District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned rejection order passed by the second respondent vide his proceedings in Na.Ka.No.2/20 dated 07.05.2020 and consequential impugned order passed by the first respondent in Na.Ka.No.1268/Aa1/2020 dated 16.06.2020, quash the same as illegal, and consequently directing the second respondent to register the petitioner's sale deed as in which is presented before him.

For Petitioner	: Mr.B.Anandan
For Respondents	: Mr.R.Baskaran, Counsel for State

O R D E R

The petitioner challenges an order dated 16.06.2020 affirming an earlier order dated 07.05.2020, whereby the petitioner's application to register a sale deed was refused by the Sub-Registrar, Kadayam, Tenkasi District.

2.The petitioner states that he resides in a natham property bearing Survey No.317(3) of an extent of 185 Sq.Metres. It is stated that a patta was issued in favour of his father about 45 years ago and that a tiled house was constructed thereon. The petitioner also states that he has a ration card, tax receipts and other proof that he resides therein. An adjacent land owner, namely, Mr.Shanmugaraj, filed a suit in O.S.No.190 of 2019 before the learned District Munsif, Ambasamudram, seeking easementary rights over the petitioner's property. The said suit is pending as on date.

3.The petitioner states that he executed a sale deed in favour of one Kanniammal and Deivega Ponmari and submitted the same for registration. However, the second respondent refused to register the document under letter dated 07.05.2020 by citing two reasons:



- (i) There is no entry in the revenue records in respect of the executors.
- (ii) Pendency of the suit in O.S.No.190 of 2019.

4.The petitioner states that the appellate authority affirmed the order by citing the very same reasons.

5.Learned counsel for the petitioner states that the impugned orders are unsustainable for the reason that the civil suit filed by the petitioner's neighbour is limited to easementary rights over the petitioner's property and cannot be cited as a ground to prevent the petitioner from conveying his properties. In addition, he relies upon the report submitted by the Revenue Inspector, Venkatampatti, on 10.09.2019, as also the report of the Village Administrative Officer. Learned counsel points out that both these revenue officials stated that the names of Nainar and Mayilraj are contained in the relevant Adangal Register. In spite of producing all the relevant documents before respondents 1 and 2, learned counsel states that the said authorities refused to register the document for completely unjustifiable reasons.

6.Mr.R.Baskaran, learned counsel for the State, refutes this contention by pointing out that the Sub-Registrar refused to register the document not only because of the pending civil suit but primarily on the ground that the revenue records do not reflect the issuance of patta with regard to the natham property in question. He also points out that the report of the Revenue Inspector is prior to the impugned orders and that not much weightage can be attached to the report of the Village Administrative Officer.

7.Upon considering the rival contentions and on examining the impugned orders, it is abundantly clear that both the original order and the appellate order contain only two reasons for refusing to register the document. The pendency of the suit, O.S.No.190 of 2019, has been cited as one reason. The plaint in O.S.No.190 of 2019 indicates clearly that it is a suit for the grant of easementary rights and not a suit disputing the title of the petitioner. The other reason cited in the impugned orders is that no natham patta has been issued to the petitioner. As regards this ground, the records disclose that the petitioner has produced both the report of the Revenue Inspector and the Village Administrative Officer which indicate that the Adangal reflects the name of the petitioner. The petitioner also referred to several documents such as the house tax receipt, the voter ID, all of which indicate that the petitioner is in possession of such natham property. When the above documents are considered cumulatively, the reasons cited by the respondents in the impugned orders are not tenable.

8.Accordingly, the impugned orders dated 07.05.2020 and 16.06.2020 are hereby quashed. As a consequence, the matter is remitted to the second respondent to reconsider the grant of patta by taking into account the observations in this order. After such reconsideration, the second respondent shall pass a reasoned order after providing a reasonable opportunity to the petitioner and any other persons who would be affected by such order within a period of three months from the date of receipt of a copy of this order.



9.W.P(MD).No.13528 of 2021 is disposed of on these terms without any order as to costs. Consequently, W.M.P(MD).No.10487 of 2021 is closed.

Sd/-

Assistant Registrar (CS I)

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/ /2021

Sub Assistant Registrar(CS)

To

- 1.The District Registrar,
Office of the District Registrar,
Cheranmahadevi.
- 2.The Sub-Registrar,
Sub-Registrar Office,
Kadayam,
Tenkasi District.
- 3.The District Munsif,
Ambasamudram,
Tirunelveli District.

+1CC to The Special Government Pleader (SR25507)

W.P. (MD)No.13528 of 2021
05.08.2021

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RS (12.08.2021) 3P-5C