



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.18808 of 2021

Karu Malai Kathiresan

... Petitioner

Vs.

1.The District Registrar,
Sivagangai,
Sivagangai District.

2.The Joint II Sub Registrar,
Sivagangai,
Sivagangai District.

3.The Revenue Divisional Officer,
Sivagangai,
Sivagangai District.

4.The Tahsildar,
Sivagangai Taluk,
Sivagangai District.

... Respondents

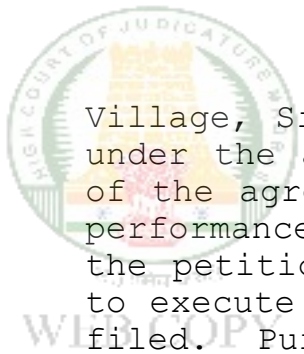
Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent pertaining to its proceeding No.Nil dated 22.09.2021 and to quash the same and consequently directing the respondents to register the sale deed dated 31.08.2021 and make necessary entries in the revenue records and to issue patta in favour of the petitioner in respect of property comprised in Survey No.146/1 of Paiyur Village, Sivagangai Taluk, Sivagangai District based on the judgment in O.S.No.11 of 2011 dated 04.02.2020 and the sale executed by the Hon'ble Principal District Court, Sivagangai dated 31.08.2021 by considering the application submitted by the petitioner dated 16.09.2021 within a time frame that may be fixed by this Hon'ble Court.

For Petitioner : Mr.S.C.Herold Singh
For Respondents : Mr.P.Subbaraj
Counsel for State

ORDER

The petitioner challenges an order dated 22.09.2021 of the second respondent by which the application to register a sale deed presented by the petitioner was rejected.

2.The petitioner states that he entered into an agreement of sale in relation to the property bearing Survey No.146/1 at Paiyur



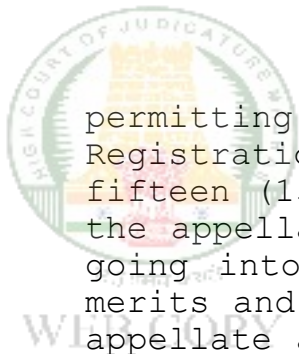
Village, Sivagangai Taluk, Sivagangai District. Since the vendors under the agreement of sale failed to execute a sale deed in terms of the agreement of sale, the petitioner filed a suit for specific performance. The said suit was decreed on 04.02.2020 in favour of the petitioner. On account of the failure of the judgement debtor to execute a sale deed pursuant to the decree, E.P.No.4 of 2021 was filed. Pursuant thereto, a sale deed dated 31.08.2021 was executed in favour of the petitioner by the learned Additional District Judge, Sivagangai. Upon presentation of the said sale deed for registration, the second respondent declined to register the sale deed and issued the impugned order dated 22.09.2021.

3.The petitioner contends that the impugned order is not sustainable inasmuch as the second respondent has erroneously concluded that the relevant land is Government land. By relying upon the "A" Register relating to Survey No.146/1, the petitioner contends that the classification therein is கைப்பற்றல் இல்லாதது and not Government land. The petitioner also relies upon a communication from the Commissioner of Land Survey, Chennai dated 28.09.2010 to the District Revenue Officer. According to the petitioner, the said document indicates that the relevant land has been wrongly classified as "கைப்பற்றல் இல்லாதது".

4.Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of all the respondents. He points out that the petitioner has a statutory appeal against the impugned order.

5.Upon perusal of the impugned order, it is apparent that the impugned order refers to the entry in the "A" Register. In addition, it refers to the letter dated 21.09.2021 of the Tahsildar, Sivagangai to the effect that the land is classified as Arasu punjai கைப்பற்றல் இல்லாதது as per the UDR "A" Register and the computer accounts.

6.Thus, the principal question that should be decided is whether the relevant property is Government property or not. Disputed questions of fact arise in relation thereto based on the documents relied upon by the petitioner, on the one hand, and documents referred to in the impugned order, on the other. Such disputed questions of fact cannot be conveniently or appropriately addressed by way of affidavit evidence in writ proceedings. The availability of a statutory appeal should be viewed in this context. Under Section 72 of the Registration Act, 1908, an appellate remedy is provided for against the order of the registration authority. One impediment that the petitioner would face is that the limitation period is specified as thirty (30) days from the date of receipt of a copy of the order. It appears that the petitioner may have marginally overshot the limitation period by *bona fide* assailing the order before this Court.



permitting the petitioner to file an appeal under Section 72 of the Registration Act, 1908. If such appeal is filed within a period of fifteen (15) days from the date of receipt of a copy of this order, the appellate authority is directed to receive such appeal without going into the question of limitation and dispose of the same on merits and in accordance with law. Upon receipt of the appeal, the appellate authority is directed to consider and dispose of the same by a reasoned order within a period of three (3) months from the date of receipt of such appeal after providing a reasonable opportunity to the petitioner and any other person who would be affected by such appeal. There will be no order as to costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/nsr/LM

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,
Sivagangai,
Sivagangai District.
- 2.The Joint II Sub Registrar,
Sivagangai,
Sivagangai District.
- 3.The Revenue Divisional Officer,
Sivagangai,
Sivagangai District.
- 4.The Tahsildar,
Sivagangai Taluk,
Sivagangai District.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-32384)

+1 CC to M/s.SPL.GP (SR-32578[F] dated 26/10/2021)

W.P (MD) No.18808 of 2021

25.10.2021

NSN (CO)

RS/UV (02.11.2021) 3P 7C

<https://hcservices.ecourts.gov.in/hcservices/>