

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NOS.7900, 7901, 7903 AND 7904 OF 2022

Smt.Gangeshwari

... Petitioner in all
petitions

Vs.

1. The Inspector General of Registration,
Santhome High Road,
Raja Annamalaipuram,
Chennai 600 028.
2. The District Registrar,
Ariyalur, Ariyalur District.
3. The Sub Registrar,
Irumbulikulurichi,
Udayarpalayam Taluk,
Ariyalur District.

... Respondents in all petitions

COMMON PRAYER:

This Writ Petition filed under Section 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus to call for the entire records relating to order of 3rd respondent dated 30.12.2021 made in Refusal Check Slip. Nos. RFL/Irumbulikulurichi/55 /2021, RFL/Irumbulikulurichi/54 /2021, RFL/Irumbulikulurichi/56 /2021, RFL/Irumbulikulurichi/57 /2021, respectively and to quash the same as illegal and further direct the 3rd respondent to register the sale deed presented for registration on 30.12.2021 bearing temporary registration Nos. TP/108615323/2021, TP/108611562/2021, TP/108613643/2021, TP/108613683/2021, respectively, and to return the document to the petitioners purchase after registration.

For Petitioner : Mr.R.Ramesh

For Respondents : Mr.Yogesh Kanndasan
Special Government Pleader

Order

These petitions have been filed for issuance of writ of Certiorarified Mandamus to call for the entire records relating to order of 3rd respondent dated 30.12.2021 and to quash the same as illegal and further direct the 3rd respondent to register the sale deed presented for registration on 30.12.2021.

2. Since no adverse orders are passed against the respondents, notice to them is not necessary and by consent, this writ petition is taken up for final disposal.

3. The case of the petitioner is that the properties situated in Dry.S.F.No.68/7 to an total extent of 1.25.50 res, 3.10 acres, originally belonged to one Poorasami, who purchased the property from one Smt.Selvammbal and from the date of purchase, the aforesaid Poorasami was in peaceful possession and thereafter executed a registered Settlement Deed, in favour of his wife namely Thangam, with regard to property situated in S.F.No.68/7, to an extent of 3.10 acres and thereafter the petitioner has purchased the above said property through a registered Sale Deed dated 27.07.2021 and subsequent to the purchase, the petitioner has also changed patta in his name. Thereafter, due to family necessity, decided to alienate the property situated in S.F.No.68/7, to an extent of 1.25.50 ares to the third parties and the subsequent purchasers have presented the documents for registration and also paid necessary stamp and registration fee to the 3rd respondent, however the 3rd respondent by order dated 30.12.2021, refused to register the sale deed presented by the purchasers, by assigning a reason that O.S.No.50/2021, filed by the legal heirs of the said Thangam, is pending before the District Munsif Cum Judicial Magistrate, Senthurai, wherein the Sub Registrar / 3rd respondent is also party. Aggrieved over the said orders, the petitioners are before this Court.

4. The learned counsel appearing for the petitioner submitted that against the refusal order, the petitioner has preferred appeal to the 2nd respondent, who by his order dated 09.02.2022, dismissed the appeal as not maintainable and further instructed the petitioner to present the document along with title deed to prove his title. It is the further submission of the learned counsel for the petitioner that in the alleged Civil Suit in O.S.No.50/2021, the petitioner is not a party and further mere pendency of the suit is not a bar under the Registration Act to refuse the document for registration and therefore, the act of the 3rd respondent in refusing to register the document is not sustainable and therefore, this Court may

issue appropriate direction to the 3rd respondent to pass appropriate orders, on production of documents for registration.

5. The learned Special Government Pleader has no serious objections for the said order being passed and he further submitted that on production of necessary documents, the same will be considered in the manner known to law.

6. Facts in the present case is not in dispute that the petitioner claims that the property was owned by the said Poorasami and it appears that Poorasami executed Settlement Deed in favour of his wife Thangam, who in turn sold the property in favour of the petitioner in the year 2021 and thereafter, the legal heirs of the said Thangam had filed the Suit in O.S.No.50/2021 for the subject property and the same is pending. However, in the said Suit, the petitioner is not added as a party. Merely because, the Suit is pending between the parties with regard to the subject property, wherein the petitioner is not a party, the 3rd respondent, refusing to register the Sale Deed is not sustainable and therefore, the impugned order is liable to be set aside.

7. Accordingly, these Writ Petitions are allowed and the impugned orders of the 3rd respondent dated 30.12.2021 made in Refusal Check Slip. Nos. RFL/ Irumbulikurichi/55 /2021, RFL/ Irumbulikurichi/54 /2021, RFL/ Irumbulikurichi/56 /2021, RFL/ Irumbulikurichi/57 /2021, respectively, are set aside and the petitioner is directed to present the documents before the 3rd respondent for registration, on payment of necessary stamp duty and other registration charges and the 3rd respondent, after receipt of the documents, is directed to entertain the same and pass appropriate orders, if the documents are in otherwise in order.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

sk

To

1. The Inspector General of Registration,
Santhome High Road,
Raja Annamalaipuram,
Chennai 600 028.

2. The District Registrar,
Ariyalur, Ariyalur District.

3. The Sub Registrar,
Irumpulikulurichi,
Udayarpalayam Taluk,
Ariyalur District.

+4ccs to Mr.R.Ramesh, Advocate, S.R.No.25972, 25973, 25974,
25975

+1cc to the Government Pleader, S.R.No.25934, 25935, 25936

W.P.Nos.7900, 7901, 7903 and 7904 of 2022

BS (CO)
PM/11/05/2022