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W.P.No.16549 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2022

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.16549 of 2022

M/s.S.D.Holdings,
a registered partnership fir,
represented by its Managing partner,
Mr.Atul Gupta,
carrying on business at,
4th floor, “Blue Haven”
No.19, Harrington Road,
Chennai 600 031.

...Petitioner

Vs.

- 1.The Inspector General of Registration,
120, Santhome High Road,
Chennai 600 028.
- 2.The District Registrar (Administration)
Chengalput Registration District,
No.10, Kancheepuram High Road,
Chengalput Bazaar,
Chengalput 603 002.
- 3.The Sub Registrar,
Office of the Sub Registrar
Cheyyur.
- 4.The Special Tahsildar,
Mamallapuram-Puducherry Corridor Scheme,



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Unit III, Chengalput.

...Respondents

WEB COPY **Prayer:-**

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 3rd respondent herein to accept the sale deeds being presented for registration in respect of the lands comprised in Survey No.650/1A2, measuring 10 Acres thereabouts; Survey No.650/1A1, measuring 2 Acres 38 cents or thereabouts; Survey No.650/1B1, measuring 3 Acres 52 cents or thereabouts; Survey No.650/1B3, measuring 3 Acres 562 cents or thereabouts; Survey No.650/1B2, measuring 3 Acres 52 cents or thereabouts; admeasuring in all a total extent of 22 acres 94 cents or thereabouts, situated at Mugaiyur Village, Cheyyur Taluk, Chengalput District.

For Petitioner : M/s.Dipthi Munoth.A

For Respondents : Mr.R.Neelakandan,
(Additional Advocate General) by
Mr.Yogesh Kannadasan,
(Special Government Pleader)

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus to direct the 3rd respondent to accept the sale deeds being presented for registration in respect of the lands comprised in Survey No.650/1A2, measuring 10 Acres thereabouts; Survey No.650/1A1, measuring 2 Acres 38 cents or thereabouts; Survey No.650/1B1, measuring 3 Acres 52 cents or thereabouts; Survey No.650/1B3, measuring 3 Acres 562 cents or thereabouts; Survey No.650/1B2, measuring 3 Acres 52 cents



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or thereabouts; admeasuring in all a total extent of 22 acres 94 cents or thereabouts, situated at Mugaiyur Village, Cheyyur Taluk, Chengalput District.

2.The learned Government Advocate takes notice for the respondents. In view of the consent expressed by the Learned counsel appearing for either side, this petition is taken up for final disposal.

3.The case of the petitioner is that the petitioner firm with an intention to purchase the properties situated at Mugaiyur Village, Cheyyur Taluk, Chengalput District, comprised in Survey Nos.650/1A2, 650/1A1, 650/1B1, 650/1B3 & 650/1B2, to a total extent of 22 Acres 94 cents from its current title holders and prepared a draft sale deed dated 13.06.2022 and the same was furnished before the 3rd respondent for verification. However, the third respondent informed that the said properties cannot be registered since, there is acquisition proceedings for widening of Mamallapuram-Puducherry Express Highway (ECR) under the National Highways Act, 1956. Hence, the Writ Petition is filed with the above said prayer.



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4.The learned counsel for the petitioner would submit that on verification with the fourth respondent, it was found that the Government under the preliminary notification dated 29.07.2019 and 07.08.2019 has proposed to acquire lands for the purpose of Mamallapuram-Puducherry Express Highway Project. By a letter dated 10.12.2020, the authorities have communicated the office of the 3rd respondent, whereby, it was instructed that, Section 11 (4) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, places a restriction on any transactions on the land subsequent to the preliminary notification. However, Section 11 (4) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, is not applicable to the National Highways Act, 1956. On this account, the law recognizes that the land owner or the person interested including the successor in interest, whether by way of inheritance or by purchase of the subject land remains entitled to receive compensation upon the preliminary notification issued and on the basis of the Manual of Guidelines on Land Acquisition for National Highways Act, 1956, in which clause 3.5.6 makes it clear that compensation to the land owner deciding to sell or transfer his/her land during pendency of the acquisition proceedings



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cannot be ruled out. It is on this account that the law recognizes the land owner or the person interested therein, whether by way of inheritance or by way of sale deed, remains entitled to receive the compensation in respect of such land, such a person being bona-fide successor-in-interest. However, contrary to the said manual and contrary to decision of this Court, the Sub-Registrar refused to entertain the sale deed which is not sustainable. Accordingly, he prayed for allowing the Writ Petition.

5.The learned Additional Advocate General appearing for respondents submits that already Land Acquisition Officer sent letter to the Sub-Registrar not to entertain any alienation in respect of said land covered under the National Highways Act, 1956. Pursuant to the information passed on by the Land Acquisition Officer, the Sub-Registrar refused to register the said sale deed dated 13.06.2022. Therefore, he prays for dismissal of the Writ Petition.

6.Heard the learned counsel appearing on either side and perused the materials available on record.



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7.The issue involved in the present case is no longer *res integra*.

The issue involved in this writ petition has already been considered by this Court in its decision reported in **2021 (1) CTC 535 [Vadamugam Vellode Nalukarai Nattu Goundergal Sangam Vs. The Inspector General of Registration and Others]**, the relevant portion of which reads as follows:

"10. The 5th respondent has approached the Civil Court and he has filed O.S.No.48 of 2019, seeking for the relief of partition and separate possession of 1/27th share in the suit properties. It is also seen that the 5th respondent has filed yet another suit in O.S.No.58 of 2017 in which she has claimed for the relief of permanent injunction restraining the defendants not to alienate the suit properties. In both the suits, there is no order passed by the Competent Civil Court injunctioning from dealing with the suit properties. What the 5th respondent was not able to achieve before the Civil Court is now sought to be achieved through the 3rd respondent by virtue of a letter given before this Court dated 21.02.2020. The 3rd respondent is a statutory authority, who has to strictly perform his function in



accordance with law. This Court exercising its jurisdiction under [Article 226](#) of Constitution of India can never prevent a statutory authority from performing his function. Therefore unless and otherwise a competent civil Court passes any interim order restraining the alienation of the property, the 3rd respondent has to entertain the documents and register the same, if it is otherwise in order. Ultimately, even if the suit is decreed, the transaction will be subject to the rule of lis pendens. There is no law in force which says that no transaction can take place during the pendency of the suit. That is exactly why [Section 52](#) of the Transfer of Property Act, provides a solution for transactions that take place during the pendency of the suit.

11. In view of the above discussion, the impugned letter of the 3rd respondent dated 21.02.2020 is hereby quashed and the 3rd respondent is directed to entertain the documents submitted for registration and register the same, if it is otherwise in order. It goes without saying that the necessary stamp duty and



registration fee will be paid at the time of submitting the document for registration."

8.From the above decision, it is clear that, the Sub Registrar is a statutory authority, who has to strictly perform his function in accordance with law and in the absence of any interim restrain order restraining the alienation of the property, the Registrar cannot refuse to entertain the document and mere administrative instruction will not preclude the Registrar to refuse to register the said document. Further, a perusal of clause 3.5.6 of the Manual of Guidelines on land acquisition for National Highways under the National Highways Act, 1956, also makes it clear that there is no bar for alienation of the property, pending acquisition, which is quoted for clarity:-

"3.5.6 i)Another issue has cropped up regarding the change of ownership of land during the process of acquisition. Though Section 11 (4) of the RFCTLARR Act places a restriction on any transaction of the land subsequent to the Preliminary Notification, it is not applicable to the NH Act, 1956. Further, since the proceedings of land Acquisition continue for some time, the possibility of a land owner



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deciding to sell or transfer his/her land during these proceedings cannot be ruled out. It is on this account that the law recognizes the land owner or the person interested therein. As such, the successor-in-interest, whether by way of inheritance or by way of sale / purchase of the subject land, remains entitled to receive the compensation in respect of such land subject to such person being a bona-fide successor-in-interest”.

9. Admittedly, the petitioner firm with an intention to purchase the above said properties from the respective land owners prepared a draft sale deed dated 13.06.2022 that was presented before the third respondent and the third respondent refused to register the said properties on the ground that the said properties will be acquired for the purpose of widening of Mamallapuram-Puducherry Express Highway under the National Highways Act, 1956. When the petitioner wants to proceed with the sale transaction, administrative instruction cannot be taken in and to refuse the registration of the document, if it is otherwise in order.

10. In view of the above, this Court is inclined to issue direction to the third respondent to register the said sale deed dated 13.06.2022 and release



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the same, if it is otherwise in order, after receipt of necessary stamp duty and registration charges.

11.The learned counsel for the petitioner further submits that the petitioner is ready to provide a part of his land, yet to be purchased from the land owner, to the National Highways Authorities after registration of the said properties and he would receive the compensation to be paid by the Land Acquisition Officer. The said statement of the learned counsel for the petitioner is recorded.

12.Accordingly, this Writ Petition is disposed of with the aforesaid observations and directions. No costs.

30.06.2022

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Speaking Order : Yes/ No
Index : Yes/ No

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To

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

2.The District Registrar (Administration)
Chengalput Registration District,
No.10, Kancheepuram High Road,
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M.DHANDAPANI,J.

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