

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. Nos.32920 and 32994 of 2014
and
M.P. Nos.1 and 1 of 2014

S. Vinodkanna ... Petitioner in W.P. No.32920 of 2014
S. Ravi ... Petitioner in W.P. No.32994 of 2014

Versus

1. The Sub Registrar,
Sub-Registrar Office,
Ganapathy, Coimbatore.

2. The Inspector of Police,
Land Grabbing (Prevention) Special Cell,
Coimbatore City, Coimbatore.

.... Respondents in both W.P.s

W.P. No.32920 of 2014 : Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records pertaining to the letter No.12 of 2014 in Book I, on the file of the 1st respondent, dated 18.2.14 prohibiting transfer of property situated at Plot No.LIG I - 1809 Tamil Nadu Housing Board Ganapathi Phase I, comprised in S.F. No.37 (Part) of Ganapathy village, Coimbatore, measuring an extent of 63 sq. mt. or 678 sq. ft., belonging to the petitioner and quash the same and consequently direct the 1st respondent to remove those entries.

W.P. No.32994 of 2014 : Writ Petition filed under Article 226 of the Constitution of India to issue Certiorarified Mandamus calling for the records pertaining to the Letter No.10 of 2014 in Book - I on the file of the 1st respondent, dated 18.2.14 prohibiting transfer of property situated at Plot No.LIG I - 466 comprised in S.F. No.36 (Part), Tamil Nadu Housing Board Ganapathy Phase - I, Ganapathy Village, Coimbatore Taluk, Coimbatore District, measuring an extent of 60 sq. mt. Or 646 sq. ft. belonging to the petitioner and quash the same and consequently direct the 1st respondent to remove those entries.

For Petitioner in both W.P.s : Mr.A.E. Ravichandran
For Respondents in both W.P.s : Mr.Yogesh Kannadasan, SGP

COMMON ORDER

Since the issue involved in both these writ petitions, is one and the same, these writ petitions are disposed of by this common order.

Brief facts leading to filing of these writ petitions are as follows :

2. The petitioner in W.P. No.32920 of 2014 purchased the property to an extent of 63 sq. mt or 678 sq. ft. bearing Plot No.LIG I - 1809 TNHB, Ganapathi Phase I, Comprised in S..F No.37 (Part), Ganapathy Village, Coimbatore from his predecessor in title - viz., S. Viswanathan by way of sale deed dated 02.12.2013 registered as document No.6907 of 2013 on the file of SRO, Ganapathy. It is stated that originally the subject property belongs to Tamil Nadu Housing Board and subsequently sold to various vendors viz., R. Senthil Kumar, Veluchamy and finally registered in favour of the petitioner in W.P. No.32920 of 2014 from S.Viswanathan, who is the petitioner's predecessor-in-title.

3. Likewise, the petitioner in W.P. No.32994 of 2014 has purchased the property bearing Plot No.LIG 466, Comprised in S.F. No.36(Part), Ganapathy Village, Coimbatore measuring an extent of 60 sq. mt or 646 sq. ft. from his vendor John William, which originally belonged to Tamil Nadu Housing Board, registered as document No.1516 of 2009 on 09.04.2009 on the file of SRO, Ganapathy.

4. While so, complaints were lodged by one Madheswari before the 2nd respondent claiming that the aforesaid properties viz., Plot No.1809 was originally allotted to her and Plot No.466, was allotted to her grandfather. It is stated that though she paid the total instalments dues for the respective plots, without executing sale deed in their favour, fraudulently, the Housing Board had registered the plots in favour of the respective petitioner's vendor.

5.It is further averred that while applying for encumbrance certificates, the petitioners came to know that based on the alleged complaint of Madheswari, the 2nd respondent issued letters dated 18.02.2014, which have been registered as Document Nos.10 and 12 of 2014 by the 1st respondent, thereby making entries in Book I, prohibiting the petitioners herein from dealing with their properties, that too without any notice to them. Aggrieved by such an entry in Book No.1, these writ petitions have been filed for quashment of the impugned orders as well as they sought for an appropriate direction.

6. Learned counsel for the petitioner in both writ petitions

vehemently argued that the disputed lands were purchased by the petitioners herein and executed sale deed in their favour to that effect. Without any notice to petitioners, the 1st respondent made an entry prohibiting transfer of property in respect of the petitioner's properties, based on an alleged complaint as well as letter from the 1st respondent which is illegal. Further, he submitted that the 1st respondent has no jurisdiction to issue such a letter and such powers are vested only with the Civil Court. The action on the part of respondents are in contravention of Article 300A of the Constitution of India which supercedes the powers granted to the authorities. In support of his contentions, by placing reliance on the decision of this Court in W.P. No.11221 of 2015, dated 27.07.2015, he prayed for allowing of these writ petitions and for issuance of direction to the 1st respondent to delete such an encumbrance entries.

7. Per contra, Mr.Yogesh Kannadasan, learned Special Government Pleader reiterating the counter affidavit submitted that based on the complaint given by one Madheswari, a case was registered under Sections 120(B), 468, 469, 471 and 420 IPC as Crime No.8 of 2014 by the Anti Land Grabbing Special Cell. Further, he submitted that during investigation, the petitioner's vendor viz., John William was arrayed as 8th accused and Senthilkumar was arrayed as 9th accused. Further, he submitted that to protect the interest of the innocent and genuine purchasers of the said properties, the 2nd respondent sent a communication to the 1st respondent to record the fact of pending investigation of the criminal case. He also submitted that the 2nd respondent, with an intention not to suppress the fact, sent the aforesaid communication and not with any ulterior motive. However, he submits that the respondents will act accordingly, as per the direction that may be issued by this Court.

8. This Court heard the arguments advanced by the learned counsel on either side and perused the materials placed on record.

9. It is borne out by record that one Madheswari lodged complaint before the law enforcing agency against the petitioner's vendor / predecessor-in-title, who were also arrayed as accused for certain offences in Crime No.8 of 2014 by the Anti Land Grabbing Special Cell. It is an undisputed fact that without any notice to petitioners, based on the communication received from the 2nd respondent, the 1st respondent has made entries in Book - I, prohibiting transfer of immovable property, which can be issued only by a competent Civil Court. However, a plain reading of Article 300-A clearly shows that no person can be deprived of his property without issuance of

directions by the specific authority of law and more so, it cannot be done, simply by issuance of orders / circulars / communications. Thus, it reveals that no such orders can be issued unless and until there is an express provision in the statutory rules. Without any jurisdiction, the action on the part of the respondents is wholly unsustainable. Further in the light of the observations made by this Court in W.P. No.11221 of 2015 on 27.07.2015, this Court is of the considered view that in the instant cases entries made in Book - I is arbitrary and violative of powers contemplated in the Constitution and principle of natural Justice. Thus, the impugned letters Nos.10 and 12 of 2014 in Book I, dated 18.02.2014 on the file 1st respondent are liable to be quashed and accordingly the said communications are hereby quashed.

10. Pursuant to quashment of impugned letters Nos.10 and 12 of 2014 in Book I, dated 18.02.2014 on the file of the 1st respondent, this Court hereby directs the 1st respondent to delete such an encumbrance entries from the relevant records. However, it is open to the second respondent, Tamil Nadu Housing Board and Madheeswari to proceed in the matter in accordance with law for any alleged illegal transaction.

11. With the aforesaid directions, these writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Sub Registrar,
Sub-Registrar Office,
Ganapathy, Coimbatore.

2. The Inspector of Police,
Land Grabbing (Prevention) Special Cell,
Coimbatore City, Coimbatore.

+2cc to Mr.A.E. Ravichandran, Advocate, S.R.No.15822,16088
+1cc to the Government Pleader, S.R.No.16670

W.P. Nos.32920 and 32994 of 2014

GMR(CO)
CT 19/04/2022