



W.P.No.25826 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.09.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.25826 of 2022

R. Nalina
(Principal)

Represented Through Power Agent

P.Kandaswamy

... Petitioner

Vs.

1. The District Registrar,
Salem West, Salem.

2. The Sub-Registrar,
Omalur, Salem District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing the respondents to accept the Sale Deed to be submitted by the petitioner in respect of property in S.No.30/1 an extent of 0.77.0 Hec at Kottagoundampatti Village, Omalur Taluk and consequently direct the respondents to return the document after due registration on payment of requisite fee and other charges and pass orders.

For Petitioner : Mr.M.Elango

For Respondents : Mr.C. Kathiravan
Special Government Pleader



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ORDER

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By consent of both the parties, the writ petition is taken up for final disposal at the time of admission stage itself.

2. This Writ Petition has been filed seeking for issuance of Writ of Mandamus, directing the respondents to accept the Sale Deed be submitted by the petitioner in respect of property in S.No.30/1 an extent of 0.77.0 Hec at Kottagoundampatti Village, Omalur Taluk and consequently direct the respondents to return the document after due registration on payment of requisite fee and other charges.

3. The case of the petitioner is that one P.C. Eswari is the mother of the petitioner and she is the owner of the subject property and after her demise the petitioner and his brother became the legal heirs of the subject property. Thereafter, the petitioner's brother executed a release deed in the result of which the petitioner became the absolute owner of the subject property. Subsequently the petitioner executed a power of Attorney in favour of one P. Kandaswamy who inturn executed a sale deed to sell the property and presented the same before the second respondent and the second respondent



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refused to registered the document on the ground that the said property belongs to Senrayaperumal Temple. Hence, the present writ petition.

4. The learned counsel for the petitioner submitted that the petitioner is the owner of the subject property and he has also executed a power of attorney to one Kandasamy and the same was registered before the Sub Registrar of Tharamangalam in Doc.No.135 of 2005 and refusing to register the sale deed in respect of the subject property is not sustainable. Hence he prays this Court to allow this petition.

5. The learned Special Government Pleader would submit that the subject land belongs to Senrayaperumal Temple and the petitioner has no right over the subject property. Hence the sale deed executed by the petitioner's power agent was refused to be registered by the Sub-Registrar.

6. Heard both sides and perused the materials available on record.

7. On perusal of records it is seen that a Joint patta has been issued to the said Eswari and 6 other persons for the subject land and there is no seperate patta issued to the said Eswari. It is pertinent to note that apart from



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the subject land one other survey number was also included in the joint patta copy. Furthermore there is no documents to produce that the said Eswari was the owner of the subject property. The petitioner has also not produced any documents that he has his right over the subject property.

8. In view of the above factual position it is made clear that there is no evidence to prove the title over the said subject property and only the Joint Patta copy was available wherein the name of the said Eswari was included. In the absence of any evidence of document that the petitioner has right over the subject property, this Court is unable to accept the contention raised by the petitioner. Hence, the petitioner cannot seek a affirmative direction from this Court as he has right over the subject property. However liberty granted to the petitioner to approach competent Civil Court for establishment of title. Thereafter present the document for registration. Accordingly this writ petition is dismissed. No Costs.

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Index: Yes/ No

Internet: Yes/No

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To.

1. The District Registrar,
Salem West, Salem.

2. The Sub-Registrar,
Omalur, Salem District.



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M.DHANDAPANI,J.

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