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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.NO.25571 OF 2021

K.S.Rangasamy

.. Petitioner

Vs.

1.The Commissioner
HR and CE Department
O/o of the HR and CE Department
Chennai-600 034.

2.The Joint Commissioner
HR and CE Department
O/o of the HR and CE Department
Coimbatore-641 018.

3.Morippiripalayam Arulmigu
Ullur Vinayagar Kovil and
Bhagavathi Amman Kovil rep. by
its Thakkar, Moperipalayam
Vaagaraapalayam post
Sulur Taluk, Coimbatore - 641 659.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the 1st respondent to act upon the representation of the petitioner dated 10.09.2021 and consequently, direct the withdrawal of any objection for the registration of documents with respect to Survey Nos.170 and 171 of Moperipalayam Village, Sulur Taluk, Coimbatore District before the Sub-Registrar, Annur, forthwith.

For Petitioner : Mr.T.Gowthaman

For Respondents : Mr.S.Yashwanth
Additional Government Pleader
(HR and CE)



O R D E R

The present Writ Petition is filed for issuance of Writ of Mandamus directing the 1st respondent to act upon the representation of the petitioner dated 10.09.2021 and consequently, direct the withdrawal of any objection for the registration of documents with respect to Survey Nos.170 and 171 of Moperipalayam Village, Sulur Taluk, Coimbatore District before the Sub-Registrar, Annur, forthwith.

2. According to the petitioner, one Rathnasabapathy is owner of 41 cents in S.No.170/1 at Moperipalayam Village, having purchased the same by the sale deed dated 23.11.2004 bearing document No.3115/2004. The petitioner is owner of 6 Acres 9 cents in S.Nos.170/1, 2 and 171/1, 2 of Moperipalayam Village, having purchased the same by sale deed dated 23.11.2004 bearing document No.3116/04. Originally, their lands were Minor Inam lands. On abolition of Minor Inams, the Settlement Tahsildar II, Gobichettipalayam, by the proceedings dated 05.06.1967 issued Ryotwari patta to one Chinnaiya Gounder and four others under Section 8(2)(1)(b) of Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. As per the order, the Special Tahsildar (Fixation of Fair Rent), Coimbatore, fixed a sum of Rs.12,220/- and Rs.10,780/- for the lands in S.Nos.170 and 171 respectively as consideration. On appeal, the said fixation was set aside and the Special Tahsildar was directed to re-fix the fair rent for the said lands. Subsequently, no consideration was fixed by the Special Tahsildar. Whiles, the petitioner's predecessor in title purchased the said properties from Chinnaiya Gounder and four others in the year 1993. The petitioner and Rathnasabapathi purchased the said property in the year 2004. The petitioner has paid consideration originally fixed by the Special Tahsildar by the proceedings dated 26.04.1971 by Demand Draft. The Tahsildar (Fair Rent Fixation) returned the same on 28.04.2014. The petitioner filed Writ Petition No.15026 of 2016 for a direction to the Tahsildar (Fair Rent Fixation), Sulur, to accept and receive the amount fixed by the Special Tahsildar (Fixation of Fair Rent), Coimbatore, by the proceedings dated 26.04.1971. This Court by the order dated 13.06.2019 disposed of the W.P.No.15026 of 2016 directing the Tahsildar (Fair Rent Fixation), Sulur, to re-fix the compensation as per the proceedings dated 13.08.2016 and extend a similar benefit to the petitioner. As per the order of this Court, the Tahsildar fixed fair rent by the proceedings dated 26.05.2021, re-fixed the fair rent for the petitioner and fixed the fair rent for Rathnasabapathi by the proceedings dated 28.05.2021. The petitioner and Rathnasabapathi paid the said consideration. Subsequently, the said Rathnasabapathi executed the sale deed dated 24.06.2021 in favour of the petitioner



conveying an extent of 39 1/3 cents in S.No.170/1, Moperipalayam Village and the same was presented to the Sub-Registrar, Annur, for registration. The petitioner registered the sale deed dated 28.06.2021 conveying an extent of 2 Acres in S.No.170/1 and 2 in favour of one Duraiswamy and presented the same to the Sub-Registrar, Annur, for registration. The Sub-Registrar refused to register both the sale deeds by referring to an objection letter given by the 3rd respondent with regard to S.Nos.170 and 171 of Moperipalayam Village. The sale deed executed by Rathnasabapathi was treated as a pending document and the number was given as P22/2021. The sale deed executed by the petitioner for 2 Acres in S.No.170/1 and 2 in favour of Duraiswamy was refused for registration by the Sub-Registrar, Annur, by a refusal cheque slip No.RFL/Annur/206/2021 dated 29.06.2021. In such circumstances, the petitioner has made a representation dated 10.09.2021 to the 1st respondent to issue No Objection Certificate for registration to the Registration Department and to take action against the respondents 2 and 3. Since no order was passed on the said representation, the petitioner has come out with the present Writ Petition.

3.The learned counsel appearing for the petitioner submitted that pending this Writ Petition, the petitioner has also filed another Writ Petition No.24408 of 2021 against the Sub-Registrar, Annur, for refusing the registration of the document, the said Writ Petition is pending and prayed for a direction to the 1st respondent to dispose of the representation dated 10.09.2021.

4.From the above facts and materials, it is seen that it is the claim of the petitioner that the properties belong to him and one Rathnasabapathi and the 3rd respondent has given objection to the Sub-Registrar, Annur, claiming that the lands belong to Morippiripalayam Arulmigu Ullur Vinayagar Kovil and Bhagavathi Amman Kovil. In view of such objection, the documents were not registered by the Sub-Registrar, Annur. It is the case of the petitioner that claim of the 3rd respondent was rejected by this Court by the order dated 22.06.2017 made in Writ Petition Nos.39123 of 2016 etc., batch and he has filed copy of the said order in the typed set of papers. A reading of the said order shows that the same was passed following the judgment of the Division Bench of this Court dated 05.04.2017 made in W.P.No.30589 of 2013 etc., batch. The operative portion of the said judgment of the Division Bench reads as follows:

"5.The Division Bench of this Court, in the said Writ Petitions has held as follows:

...

25.In view of the above discussions, all the writ



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petitions are allowed and the impugned orders are set aside with the following directions:

i. The registering authority before whom the document has been presented shall cause service of notice on the parties to the deeds and also to the objector / religious institution, hold summary enquiry, hear the parties and then either register or refuse to register the document by passing an order having regard to the relevant facts as indicated above.

ii. If the registering authority, refuses to register any document by accepting the objections raised under Section 22-A of the Registration Act, the aggrieved may file a statutory appeal under the Act.

iii. If the objections raised under Section 22-A of the Act by the religious institution are rejected and the document is registered, the remedy for the religious institution is to either approach this Court by way of a writ petition seeking cancellation of the registration or for any other relief or to approach the civil Court for declaration of the title and for other consequential reliefs.

iv. If the registering authority refuses to register the document acting on the objections raised by a religious institution under Section 22-A of the Registration Act, the parties to the deed will be at liberty to straightaway approach the Civil Court for declaration of title and other relief without availing the opportunity for filing a statutory appeal.

v. We further direct that if the deed has already been registered without there being any objection by the religious institution under Section 22-A of the Act, the document shall be returned to the parties concerned leaving it open for the religious institution to approach either the High Court under Article 226 of the Constitution of India or the Civil Court for appropriate relief as indicated above. At any rate, the registering authority shall not withhold the deed which has already been registered.

vi. Consequently the connected miscellaneous petitions are closed. No costs."

Following the above said judgment of the Division Bench, this Court in the order dated 22.06.2017 made in W.P.Nos.39123 of 2016 etc., batch held as follows:

6.Since the above Writ Petitions are covered by the order passed by the Division Bench of this Court, following the said order, all the Writ Petitions are



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allowed and the impugned orders are set aside with the following directions:

(a) The registering authority before whom the document has been presented shall cause service of notice on the parties to the deeds and also to the objector / religious institution, hold summary enquiry, hear the parties and then either register or refuse to register the document by passing an order having regard to the relevant facts as indicated above.

(b) If the registering authority, refuses to register any document by accepting the objections raised under Section 22-A of the Registration Act, the aggrieved may file a statutory appeal under the Act.

(c) If the objections raised under Section 22-A of the Act by the religious institution are rejected and the document is registered, the remedy for the religious institution is to either approach this Court by way of a writ petition seeking cancellation of the registration or for any other relief or to approach the civil Court for declaration of the title and for other consequential reliefs.

(d) If the registering authority refuses to register the document acting on the objections raised by a religious institution under Section 22-A of the Registration Act, the parties to the deed will be at liberty to straightaway approach the Civil Court for declaration of title and other relief without availing the opportunity for filing a statutory appeal.

(e) I further direct that if the deed has already been registered without there being any objection by the religious institution under Section 22-A of the Act, the document shall be returned to the parties concerned leaving it open for the religious institution to approach either the High Court under Article 226 of the Constitution of India or the Civil Court for appropriate relief as indicated above. At any rate, the registering authority shall not withhold the deed which has already been registered."

5.As per the judgment of the Division Bench of this Court dated 05.04.2017 made in W.P.No.30589 of 2013 etc., batch and order of this Court dated 22.06.2017 made in W.P.No.39123 of 2016 etc., batch, when the registration of the document is refused by the Sub-Registrar, Annur based on the objection, the remedy available to the Executant is to file an appeal to the concerned authority or to approach the Civil Court for declaration of title straightaway. The judgment of the Division Bench and order of this Court referred to above are squarely



applicable to the facts of the present case. According to the learned counsel appearing for the petitioner, he has already filed Writ Petition No.24408 of 2021 against the Sub-Registrar, Annur and the same is pending before this Court. In view of the judgment of the Division Bench and order of this Court referred to above, the representation given by the petitioner to the 1st respondent is not maintainable. The petitioner is not entitled to the relief claimed in the said representation as said representation itself is not maintainable. The remedy available to the petitioner is either to file an appeal or straightaway file a civil suit for declaration of title and other relief.

6.For the above reasons, the Writ Petition stands dismissed.
No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner
HR and CE Department
O/o of the HR and CE Department
Chennai-600 034.
2. The Joint Commissioner
HR and CE Department
O/o of the HR and CE Department
Coimbatore-641 018.

+1cc to Mr.T.Gowthaman, Advocate, S.R.No.10346

+1cc to the Government Pleader, S.R.No.10519

W.P.No.25571 of 2021

PMK(CO)
RLP(08/03/2022)