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W.P.No.35077 of 2022

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 28.12.2022

CORAM:

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.35077 of 2022

1. A.V.R.Natesan
2. A.V.R.Vaidyanathan

.. Petitioners

Vs.

1. The Sub-Registrar
Padappai Sub-Registration Office
kancheepuram District.

2. The Assistant Commissioner
Urban Land Tax, Tambaram
No.153, Karuneegar Theru
Adambakkam
Chennai - 600 088.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to register the memorandum of deposit of title deeds dated 17.11.2022 presented for registration vide online application No.TP/137316324/2022 and to return the document forthwith.



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For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.P.Balathandayutham
Special Government Pleader

ORDER

The writ petition has been filed praying for a writ of mandamus directing to register the Memorandum of Title Deeds presented for registration vide online application No.TP/137316324/2002 and to return the documents forthwith.

2. The petitioners are brothers and had purchased two properties viz., Plot No.5 from one Mr.Krishnamurthy and Plot No.6 from Mr.Sundaravadivel by the 2nd and the 1st Respondents respectively for a valuable sale consideration on 09.09.2011 vide document No.15770 of 2011.

3. The petitioners would submit that they are in possession and enjoyment of the above mentioned properties and the Revenue Records were mutated in their favour in respect of the said plots. It is submitted that the petitioners in order to meet out the business needs had obtained loans by executing Deed of Mortgage in respect of the said properties vide Document No.5812 of 2019 on 07.08.2019 for Rs.4,43,30,000/- and



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Document No.5744 of 2020 on 31.10.2020 for a sum of Rs.83,11,949/- after paying necessary stamp duty for registration of deposit of Title Deeds. The original documents were deposited with ICICI Bank. The petitioners were in need of additional funds and thus approached ICICI Bank Ltd. for financial assistance, which in turn, agreed to lend money as requested and also required execution of a mortgage by Deposit of Title Deeds. Pursuant thereto, MoD was presented for execution with the 1st Respondent along with necessary charges vide online application No.TP/13731423/2022 on 17.11.2022.

4. It is submitted by the learned counsel for the Respondents that the document was not registered by the 2nd Respondent and that on enquiry, the petitioners were informed that the 2nd Respondent has issued a communication dated 21.11.2022 to the 1st Respondent stating that the subject matter of the lands along with other properties in S.No.112/1 and 112/2 totally measuring to an extent of 1,800 sq.m of land were acquired as excess vacant land under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. Thereafter, the Sub-Registrar sought for additional information by a communication dated 03.12.2022 to the 2nd



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Respondent seeking for explanation with specific boundaries of the subject land sought to be executed under Mortgage that these were acquired under the land ceiling proceedings and kept the document pending without any progress.

5. The petitioner submitted that the subject land is in continuous and uninterrupted possession and enjoyment from his predecessors and all the Revenue Records stand in the name of the petitioners till date and that there is no encumbrance of any other dispute regarding the subject lands for the past several decades.

6. It is submitted that the petitioners are faced with liquidity crunch and they are dependent upon the mortgage loan from the Bank to tide over the above difficulty. It is submitted that the Online Application in Application No.TP/13731423/2022 has been kept pending for more than a month. Although, according to the petitioners there are no legal impediments for registering the documents as the subject land absolutely belongs to the petitioners including all the Revenue Records. Therefore, the non-registration of the document by the 1st Respondent is against the



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provision enumerated under Section 22-A of the Registration Act, since the land does not belong to Government at any point of time. Even if it was covered by Land Ceiling, the same was hit by law of laches and procedural violation under the said Act.

7. It is made clear that this Court does not wish to express any views on merits. In the circumstances, the 1st Respondent may register the Memorandum of Deposit of Title Deed dated 17.11.2022, presented for registration vide Online Application No.TP/13731423/2022 and return the documents forthwith, if there are no legal impediments as submitted by the petitioners.

8. Accordingly, the writ petition is disposed of. There will be no order as to costs.

28.12.2022

Index:Yes/No
Speaking order/Non-speaking order
drm/rap

Note: Issue order copy on 29.12.2022



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MOHAMMED SHAFFIQ, J.

(drm/mka)

To:

1. The Sub-Registrar
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kancheepuram District.
2. The Assistant Commissioner
Urban Land Tax, Tambaram
No.153, Karuneegar Theru
Adambakkam ,Chennai - 600 088.

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(1/2)