



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2022

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) .No.3596 of 2022

A.Jeyaram

... Petitioner

Vs.

1.The Deputy Inspector General of Registration,
Combined Registration Complex,
TNAU Nagar,
Rajakambeeram,
Thirumugoor Road,
Y.Othakadai,
Madurai.

2.The District Registrar,
Palani Registration Department,
Tahsildar Office Complex,
Palani,
Dindigul District.

3.The Sub Registrar,
Sub Registrar Office No.1,
Palani,
Dindigul District.

4.The Manager / Authorized Officer,
Canara Bank,
Palani Branch,
Railway Station Road,
Palani,
Dindigul District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the third respondent in Application No.S01LANDVV202202179289167 dated 17.02.2022 and quash the same and consequently direct the second and third respondents to register the sale certificate executed by the fourth respondent for the land in New Survey No.134/2A and 134/2C, Old Survey No.134/1 Plot No.118, 119, 135, 136 of an extent of 2.17 Acres and 4.32 Acre (out of total 6.49) situated at Lakshmi Nagar Layout, Kalickanaickenpatty Village, Palani Joint-I SRO, Palani Taluk, Dindigul District by exempting the registration stamp duty.



For Petitioner : Mr.N.Marivel
For R-1 to R-3 : Mr.S.Shanmugavel,
Additional Government Pleader.
For R-4 : Mr.C.Karthik,
Standing Counsel.

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ORDER

This Writ Petition has been filed challenging the the impugned order passed by the third respondent dated 17.02.2022, to quash the same and to issue a direction to the second and third respondents to register the sale certificate executed by the fourth respondent for the land in New Survey No.134/2A and 134/2C, Old Survey No.134/1 Plot Nos.118, 119, 135, 136 measuring to an extent of 2.17 Acres and 4.32 Acre (out of total 6.49) situated at Lakshmi Nagar Layout, Kalickanaickenpatty Village, Palani Joint-I SRO, Palani Taluk, Dindigul District by exempting the registration stamp duty.

2. It is the contention of the petitioner that he was the successful bidder in the auction conducted by the fourth respondent, thereafter a sale certificate dated 15.04.2021 was also issued in his favour for the subject property. The petitioner presented the sale certificate for registration. The fourth respondent has also forwarded the sale certificate issued in favour of the petitioner to the third respondent for registration in book-I under Section 89 of the Act. However, till date, the third respondent has not registered the sale certificate. In such circumstances, the petitioner has filed this Writ Petition.

3. Heard Mr.N.Marivel, learned counsel for the petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader who accepts notice on behalf of the respondents 1 to 3 and Mr.C.Karthik, learned Standing Counsel, who accepts notice on behalf of the fourth respondent.

4. Learned counsel for the petitioner drew the attention of this Court to a judgment of the learned Single Judge of this Court dated 17.11.2021 passed in W.P.No.20769 of 2021, pertaining to the issue of the third respondent therein who had sold through an auction to the petitioner therein a property and the sale certificate in that case also was refused to be registered but pursuant to the order dated 17.11.2021, referred to supra, passed in W.P.No.20769 of 2021, a direction was issued to the second respondent therein to register the sale certificate in Book-I under Section 89 of the Act, without insisting upon the payment of stamp duty. In particular, learned counsel for the petitioner referred to paragraph No.8 of the said order, wherein the learned Single Judge has held that when a sale certificate is presented before the second respondent not for the purpose of registration but only for the purpose of filing it under Section 89 of the Act, the second respondent cannot refuse acceptance for registration under Book-I.



5. Section 89(4) of the Act makes it clear that once a copy of the sale certificate is forwarded by Revenue Officer granting a certificate of sale, the registering authority within the local limits of whose jurisdiction the property is situated, shall file the copy of the sale certificate in Book-I. In the case on hand also, the property has been purchased by the petitioner only pursuant to the petitioner becoming the successful bidder in the auction conducted by the fourth respondent and only thereafter the sale certificate came to be issued in his favour. The petitioner has also not sought for registration of the sale certificate but has only requested the registering officer to file the sale certificate in Book-I in accordance with the Act.

6. After giving due consideration to the aforementioned facts, this Court is inclined to allow the Writ Petition as the law is very clear on the point of issue involved in this Writ Petition.

7. Per contra, the learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that stamp duty is payable by the petitioner for registration of the sale certificate. The said statement is recorded. But since the sale certificate is filed in Book-I only, the said contention is rejected by this Court.

8. Accordingly, the prayer sought for in this Writ Petition is granted, the impugned order is quashed and the Writ Petition is allowed and a direction is issued to the third respondent to file the sale certificate submitted by the fourth respondent in respect of the property purchased by the petitioner in Book-I as per the provisions of Section 89 of the Act within a period of two (2) weeks from the date of receipt of a copy of this order. The third respondent is also not empowered to insist for payment of stamp duty under the provisions that are applicable for normal registrations which fall under Book-II. There shall be no order as to costs.

Sd/-

Assistant Registrar (CRL)

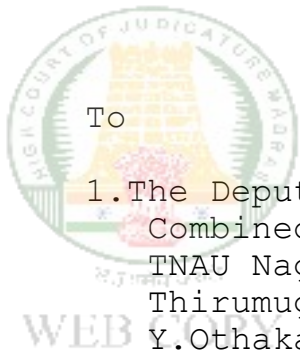
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/ /2022

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Deputy Inspector General of Registration,
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+1 CC to M/s.SPL.GP (SR-16666[F] dated 05/04/2022)

W.P. (MD) .No.3596 of 2022
04.04.2022

CK(CO)
KB(20.04.2022) 4P 5C