



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 18.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.22424 of 2022

D.Balasubramanian

..Petitioner

Vs

1.The Sub-Registrar,
Joint-I Sub-Registrar Office,
Palayamkottai,
Tirunelveli.

2.The Inspector of Police,
Economic Offences Wing No.II,
East Car Street,
Palayamkottai – 627 002,
Tirunelveli.
(Crime No.2 of 2012)

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the first respondent to entertain the sale deed of the Petitioner which is relating to a house and site in Door No.68C in Patta No.640 in S.No.168/20, admeasuring 7.50 cents and Ayan Punja land in S.No.68 part in Patta No. 487 as per R.S.No.68/2A 1A admeasuring 1 acre 46 cents in northern side out of 2 acres 93 cents in eastern side situated at V.M.Chatram Village, Palayamkottai Taluk, Tirunelveli District based on the Petitioner's representation, dated 19.1.2022.

For Petitioner :Mr.T.Selvan



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For Respondent-1 :Mr.K.S.Selvaganesan
Addl.Govt.Pleader

For Respondent-2 :Mr.B.Thanga Aravindh
Govt.Advocate(Crl.side)

ORDER

The Petitioner has filed this Writ Petition seeking issuance of a Writ of Mandamus directing the first respondent to entertain the sale deed of the Petitioner which is relating to a house and site in Door No.68C in Patta No.640 in S.No.168/20, admeasuring 7.50 cents and Ayan Punja land in S.No.68 part in Patta No.487 as per R.S.No.68/2A 1A admeasuring 1 acre 46 cents in northern side out of 2 acres 93 cents in eastern side situated at V.M.Chatram Village, Palayamkottai Taluk, Tirunelveli District based on the Petitioner's representation, dated 19.1.2022.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The case of the Petitioner is that he derived title to the above said properties by way of Settlement Deed executed by his father in favour of the Petitioner in Document NO.4051 of 2014 and 4055 of 2014 and from that onwards, the Petitioner was in possession and enjoyment of the same.For the betterment of the Petitioner's daughter, he decided to sell the said properties. When the Petitioner went to the Sub-Registrar Office,



first respondent regarding the said properties. The Petitioner has not involved in any offence as cited in Cr.No.2 of 2012. As the Petitioner's brother is an accused, the second respondent sent a letter to the first respondent to obstruct the Petitioner's property and failed to take note that the Petitioner's brother is having no connection with the Petitioner's property. There is no complaint against the Petitioner regarding E.Mu Poultry and without enquiry or any notice, encumbrance on the Petitioner's property by the first respondent is against law. Hence the Petitioner sent a representation on 19.1.2022 to the respondents and till date, no action has been taken. Thereafter, the Petitioner filed a Petition to remove the attachment before the TANPID Court. The learned Court had returned the Petition stating that there is no attachment made by the said Court in respect of the Petitioner's property. The first respondent has no power to refuse registration of sale deed for the reason that obstruction petition except restraint order from the competent civil forum. After verifying the documents, the first respondent ought to have registered the same, however, the same Official has refused the same. Hence the Petitioner, without no other alternative, had filed this Writ Petition, for the relief stated supra.

4. On going through the typed-set of papers, it is seen that the second respondent has filed a counter affidavit, wherein, it is stated that before EOW-II, Tirunelveli, the Police has registered a case against the



accused under Section 406, 420, 120(b) IPC, in Crime No.2 of 2012, dated 15.8.2012. It was submitted that the Petitioner and his family members were running a company by name "Suki Emu Farms India Private Limited" and they have cheated the general public by giving attractive offers and many people have invested more money in the said scheme and since they have not returned the money, a complaint has been filed by the general public and the same has been taken on file. According to the Petitioner, his father had purchased some properties in the year 1982 and the same was settled in favour of the Petitioner in the year 2014. The general public has given complaint against the Petitioner and the same was registered in Cr.No.2 of 2012. But there is no other averments whether the said lands were purchased from and out of the said business and the same cannot be decided at this juncture. The Petitioner's claim is that all the documents has to be registered by the respondents is also not accepted when the case has been pending against him in Crime No.2 of 2012. The alleged document is of the year 2014 and the properties were purchased in the year 1982. There is no attachment by the TANPID Court and as such there is no impediment for the authorities to register the same.

5. The Government Pleaders appearing for the respondents would submit that the act of the Petitioner, Petitioner's brother and other family members have run the Suki Emu Farm and the dispute in this regard has



to be decided only by the TANPID Court and this Court cannot interfere with the proceedings pending before the TANPID Court. All the proceedings were initiated under the above Act and placed before the District Revenue Officer concerned and then immediately Government orders would be passed for attachment of his properties, as it is pleaded that the petitioner and his family members have cheated the innocent persons and general public and seeks some more time for issuance of the said Government Order. If any order is passed in favour of the Petitioner, then it will be detrimental to the interest of the general public. It is stated that a sum of Rs.25 lakhs has been approximately cheated, but the properties are worth more than Rs.25 lakhs. Unless and until the depositors were settled, then only the properties in question has to be got registered in favour of the Petitioner and the encumbrance is allowed to be deleted. The learned Government Pleaders would submit that only in the interest of the general public, the respondents have refused to register the document submitted by the Petitioner and hence the refusal of registering the document

6. The TANPID Act states that the Government may, in order to protect the interests of the depositors of such financial establishment, pass an ad interim order attaching the money or other property alleged to have been procured either in the name of the Financial Establishment or in the name of any other person from and out of the deposits collected



by the Financial Establishment or if it transpires that such money or other property is not available for attachment or not sufficient for repayment of the deposits, such other property of the said financial establishment or the promoter, partner, director, manager or member of the said financial establishment or a person who has borrowed money from the financial establishment to the extent of his default or, such other properties of that person in whom name properties were purchased from and out of the deposits collected by the Financial establishment, as the Government may think fit, and transfer the control over the said money or property to the competent authority.

7. Here is a case where the Petitioner has to prove his innocence before the competent forum, as the deposits of the poor and innocent depositors are cheated by the Petitioner and his family members and the same has to be settled by the Petitioner or his company. Hence this Court is not inclined to interfere with the refusal of the respondents to register the settlement deed in favour of the Petitioner and as such, the Writ Petition is liable to be dismissed.

8. Accordingly, the Writ Petition stands dismissed. No costs.

18.11.2022



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Index : Yes/No

Internet: Yes/No

vsn

To

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Tirunelveli.
2. The Inspector of Police,
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V.BHAVANI SUBBAROYAN,J
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