



W.P.(MD).No.24488 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.11.2022

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.(MD).No.24488 of 2022

and

W.M.P.(MD).No.18567 of 2022

C.Moorthy

... Petitioner

vs.

The Sub Registrar,
Sub Registrar Office,
Nazareth,
Tuticorin District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Document No.TP/133854492/2022, dated 27.09.2022 along with check slip on the file of Sub Registrar, Nazareth and quash the same and consequently direct the respondent to register the name of the petitioner in the encumbrance and to remove the name of PACL Company from the encumbrance in respect of the property situated in S.No.151/6A2 at Kurippankulam Village, Nazareth, Eral Taluk, Tuticorin District.

For Petitioner

: Mr.S.Siva Thilakar

For Respondent

: Mr.K.S.Selvaganesan

Additional Government Pleader



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ORDER

This Writ Petition has been filed challenging the return of Document No.TP/133854492/2022, dated 27.09.2022, along with the check slip by the Sub Registrar, Nazareth and to quash the same and consequently direct the respondent to register the name of the petitioner in the encumbrance and to remove the name of PACL Company from the encumbrance in respect of the property situated in S.No.151/6A2 at Kurippankulam Village, Nazareth, Eral Taluk, Tuticorin District.

2. The case of the petitioner is that the property in S.No.151/6A to an extent of 11 cents was purchased in the name of the petitioner's wife Sujatha, by sale deed dated 03.09.2012 from one Indira Gandhi. Thereafter, the revenue records were mutated in her name and the land was sub-divided and separate Patta No.1860 was also given in her name. On 05.04.2017, they got permission under the Government Green House Scheme from Kurippankulam panchayat and constructed a house and the petitioner has obtained a loan of Rs.3,00,000/- on 03.07.2018 from Nazareth Co-operative Bank and repaid the loan in full. His wife Sujatha was died on 04.02.2022. He has also obtained loan from various persons



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for the medical expenses of his wife. Since there was a pressure from the third parties to settle the amount, he wanted to hypothecate his house to avail a loan again. Further, he wanted to remove the name of Nazareth Co-operative Bank from encumbrance. At that time, he came to know that on 05.06.2022, the encumbrance certificate reflected that 11 cents of property, which they had purchased from lawful owner, stands in the name of one PACL Company. Therefore, no registration or cancellation of any encumbrance can be made with regard to the property.

3. It is the further case of the petitioner that the joint owners viz., M.Thangasamy, V.Thirumani and Indira Gandhi of the property in S.No. 151/6A had never sold the property to PACL Company at any point of time. Hence, the petitioner has approached the respondent to remove the name of PACL Company and to release the encumbrance. Further, the Bank Manager also agreed to execute a mortgage loan. However, the said document has been returned stating that since the property stands in the name of PACL Company, his request could not be considered. Therefore, the petitioner has challenged the return of document along with the check slip.



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4. The learned counsel appearing for the petitioner would submit that the return of document with check slip for the reason that the petitioner should obtain 'No Objection' certificate from Nodal Officer cum Secretary, Justice (Retired) R.M.Lodha Committee is arbitrary. Further, there is no connection between PACL Company and the property of the petitioner at any point of time. The name of PACL Company has been wrongly registered in the encumbrance and therefore, the question of getting no objection from Nodal officer cum Secretary, Justice (Retired) R.M.Lodha Committee will not arise and hence, the impugned return of document is liable to be quashed.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent.

6. On going through the instructions given by the learned Additional Government Pleader, it is seen that the Hon'ble Supreme Court, by an order dated 02.02.2016 in C.A.No.13301 of 2015 and connected matters directed the Securities and Exchange Board of India (SEBI) to constitute a Committee under the Chairmanship of Justice



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(Retd.) R.M.Lodha, Former Chief Justice of India. In compliance, a Committee has been constituted by SEBI under the Chairmanship of Justice (Retd.) R.M.Lodha, former Chief Justice of India (the 'Committee') for disposing of the properties of PACL Ltd., so that the sale proceeds can be paid to the investors. Thereafter, by an order dated 25.07.2016, in an application filed by SEBI in C.A.No.13301/2015, directed the PACL and /or its Directors / Promoters / agents / employees /group and / or associate companies be restrained from selling / transferring / alienating any of the properties wherein PACL has, in any manner, a right interest situated either within or outside India.

7. In view of the foregoing, the properties owned by PACL or wherein PACL Ltd., or any of its associates /subsidiaries have any interest / right, directly or indirectly cannot be transferred / alienated without the permission of the Hon'ble Supreme Court pursuant to recommendation of the Committee. Further, the Encumbrance Certificate (EC) procured from the website of Department of Registration, Tamil Nadu for the aforesaid properties (Survey No.) falling under your jurisdiction also indicate that registration of transaction has taken place on 2016 and / or later. It is also informed that the Committee has



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appointed Shri R.S.Virk, (Retd.) District Judge for hearing the objections / representations in respect of the work being undertaken by the PACL Committee. The Hon'ble Supreme Court has been intimated of the appointment of Shri.R.S.Virk (Retd.) District Judge and vide order dated 15.11.2017, the Hon'ble Supreme Court has taken the view that all applicants put up their cases before Shri R.S.Virk (Retd.) District Judge.

8. On perusal of the records, it is seen that the Survey number of the petitioner's land is 151/6A in MR.NO.27842/16, general power of attorney with Vijay Teotia, S/o.Bachan Singh, r/o. Paschim Vihar, New Delhi and the seller is Patchakilli Ammal, W/o. Ponnaiah Nadar, r/o. Tuticorin, Tamil Nadu and the same falls under Serial No.455. Hence, the petitioner has to approach the competent authority and not before this Court. Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

04.11.2022

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To
The Sub Registrar,
Sub Registrar Office,
Nazareth,

6/7



Tuticorin District.

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V.BHAVANI SUBBAROYAN,J.

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