

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.Nos.5145 & 5146 of 2023

Sri Nallathal Spinning Mills Pvt. Ltd.,
Rep. By its Managing Director,
P.Muruganesan,
D.No.4/1/29, Mekkadu,
Thiruchengode Main Road,
Alampalayam, Erode – 638 008.

... Petitioner in both WPs

Vs

1.The Inspector General of Registration,
Santhome High Road,
Chennai – 600 028.

2.The Sub Registrar,
Sub-Registrar Office,
Kayathar, Tuticorin District.

... Respondents in both WPs

Prayer in WP.No.5145/2023: Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to register Pending Document No.9/2023 and release the same to the petitioner.

Prayer in WP.No.5146/2023: Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to register Pending Document No.10/2023 and release the same to the petitioner.

In both WPs
For Petitioner : Mr.K.Selvaraj
For Respondents : Mrs.N.Senthil Selvi
Government Advocate

COMMON ORDER

Since these writ petitions are filed by the same petitioner and the issue is also one and the same, with the consent of the learned counsel appearing for both sides, both the writ petitions were heard together and are disposed of by this common order.

2. In respect of these two writ petitions, the petitioner had submitted documents for registration to the 2nd respondent and those documents having been registered have been kept pending as Pending Document Nos.9/2023 and 10/2023 and the same have not been released, therefore in order to release these documents, the petitioner has moved these two writ petitions.

3. Heard Mr.K.Selvaraj, learned counsel appearing for the petitioner who would submit that the said documents are pertaining to the purchase of land where there is a wind mill structure established earlier become unused or in dilapidated condition, therefore the sale deed in question pertains to

the land only, however the 2nd respondent SRO has taken a stand that the structure also to be valued and then only the documents would be released.

4. In this context, the learned counsel for the petitioner would submit that it is not a building or structure, it is only a wind mill that larger pole would be erected where a fan with larger blade would have been fixed for the purpose of generating wind mill energy, therefore it is not a structure to be valued for the purpose of stamp duty to be included in the documents in question.

5. However Mrs.N.Senthil Selvi, learned Government Advocate for the respondents would submit that in the communication given by the 2nd respondent in both the cases, the 2nd respondent has stated that the documents have been kept pending for the purpose of making a spot inspection and thereafter it would be decided as to whether the structure viz., wind mill structure does not require any additional stamp duty.

6. I have considered the said submissions made by the learned counsel for both sides and have perused the materials placed before this Court.

7. Since it is the stand of the petitioner that, it is only a land where there has been no building or structure constructed except the wind mill which is not a structure for the purpose of valuation and stamp duty and therefore the said stand taken by the respondents may not be justifiable.

8. However, in order to verify the same as to whether any structure has been constructed in the said site, the 2nd respondent wanted to have an inspection of the spot, therefore this Court feels that after conducting an inspection the documents in question can be considered for releasing of the same if there is no structure has been constructed for the purpose of valuing the same in order to collect additional stamp duty.

9. In that view of the matter, this Court is inclined to dispose of these writ petitions with the following orders:

There shall be a direction to the 2nd respondent, Sub Registrar, Kayathar, Tuticorin District in both the cases to complete the spot inspection and after verification as to whether any construction has been made in the land in question concerned which is covered under the documents, which

required any additional stamp duty, as per the assessment the documents in question which have been kept pending at the 2nd respondent office in both the cases can be released. The needful as indicated above shall be undertaken by the 2nd respondent in both the cases within a period of four weeks from the date of receipt of a copy of this order.

10. With these directions, both the writ petitions are disposed of. No costs.

23.02.2023

Index : Yes / No

Speaking Order : Yes / No

Sgl

To

1.The Inspector General of Registration,
Santhome High Road,
Chennai – 600 028.

2.The Sub Registrar,
Sub-Registrar Office,
Kayathar, Tuticorin District.

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R.SURESH KUMAR, J.

Sgl

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