



WEB COPY

WP No.18559 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11-07-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.18559 of 2023

And

WMP No.17797 of 2023

M.Murugesan

... Petitioner

Vs.

- 1.The National Commission for Scheduled Castes,
5th Floor, Loknayak Bhawan,
Khan Market,
New Delhi-110 003.
- 2.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.
- 3.The Deputy Inspector General of Registration,
Salem.
- 4.The District Registrar,
Krishnagiri,
Krishnagiri District.
- 5.The Joint Sub Registrar No.2,
Krishnagiri,
Krisnagiri District.



6.K.Srinivasan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceeding on the file of the first respondent in File No.24/11/Misc/TN/2022/ESDW dated 23.09.2022 and quash the same and consequently direct the fifth respondent to return the document registered as Document No.1825/2022 dated 22.04.2022 to petitioner.

For Petitioner : Mr.V.Prakash, Senior Counsel for
Mr.T.Arockia Dass for
M/s.Dass and Viswa Associates.

For Respondent-1 : Mr.A.R.Sakthivel,
Senior Panel Counsel.

For Respondents-2 to 5 : Mr.D.Ravichander,
Special Government Pleader.

ORDER

The writ on hand has been instituted questioning the validity of the order passed by the first respondent in proceedings dated 23.09.2022.

2. The petitioner states that he purchased the property in Plot Nos.7 and 8, Sri Kamakshi Amman Layout, Payanapalli Village, Krishnagiri



Taluk and District vide Sale Deed in Document No.1825/2022 dated 22.04.2022 on the file of the fifth respondent after paid entire sale consideration to his vendor and he is in possession and enjoyment of the subject property.

3. The petitioner received notice under Section 27 of the Stamp Act saying that the value of the property indicated in the document is lesser. Thus the fifth respondent asked the petitioner to pay the deficit stamp duty to an amount of Rs.9,84,360/- vide communication dated 29.06.2022. The petitioner paid the entire deficit stamp duty and it was accepted as endorsed by the Joint Sub Registrar vide Receipt dated 16.09.2022.

4. The learned Senior Counsel appearing on behalf of the writ petitioner made a submission that the petitioner is entitled to receive the document from the Registering Authority. However, the Registering Authority has failed to return the document on the ground that they have received notice from the National Commission for Scheduled Castes vide proceeding dated 2.09.2022.



5. The proceedings of the National Commission for Scheduled Castes indicate that the Commission recommends to the Registration Department Officials that the original Sale Deed has not been handed over to the buyer till the case is in progress and under investigation. The compliance report in this regard shall be submitted to the Commission.

6. With reference to the recommendations made by the National Commission for Scheduled Castes, the learned Senior Counsel for the petitioner relied on the judgment in the case **All India Indian Overseas Bank SC and ST Employees' Welfare Association vs. Union of India [(1996) 6 SCC 606]**, wherein the Hon'ble Supreme Court of India in paragraph-10 held as under:-

“10. Interestingly, here, in clause (8) of Article 338, the words used are “the Commission shall ... have all the powers of the Civil Court trying a suit”. But the words “all the powers of a Civil Court” have to be exercised “while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause 5”. All the procedural



powers of a civil court are given to the Commission for the purpose of investigating and inquiring into these matters and that too for that limited purpose only. The powers of a civil court of granting injunctions, temporary or permanent, do not inhere in the Commission nor can such a power be inferred or derived from a reading of clause (8) of Article 338 of the Constitution.”

7. Relying on the judgment, cited supra, the learned Senior Counsel appearing on behalf of the petitioner contended that the document registered cannot be withhold by the Registering Authority and more-so, the petitioner has already paid the deficit stamp duty sought for by the Authorities concerned. Thus the order impugned to the extent of recommendation made to the Registration Department otherwise not to hand over the said document is to be quashed.

8. The learned Senior Panel Counsel appearing on behalf of the first respondent raised an objection that the National Commission for Scheduled Castes, is empowered to conduct an enquiry into the allegations raised within the purview of the SC and ST Act. It is the recommendation



made to be implemented during the pendency of the enquiry to be conducted. With this, there is no infirmity as such.

WEB COPY

9. No doubt, the National Commission for Scheduled Castes is empowered to conduct an enquiry into the allegations raised by the aggrieved persons. While doing so, they are not empowered to recommend to defeat the provisions of Registration Act, 1908 and to impound the document, which is otherwise registered by following the procedures.

10. In the present case, the document presented by the writ petitioner had been registered and the stamp duty also has been paid. Under Section 61(2) of the Registration Act, 1908, the Registering Authority is bound to return the document on completion of registration and therefore, recommendations made by the National Commission for Scheduled Castes, is running counter to the provisions of the Registration Act, 1908 and thus cannot be implemented.

11. More-so, the National Commission for Scheduled Castes has given its recommendations, which cannot be construed as an order



affecting the rights of the parties, which is otherwise conferred under the provisions of the Registration Act, 1908. Thus the order impugned to an extent of recommending the Registration Department Officials not to hand over the original Sale Deed registered is perverse and running counter to Section 61(2) of the Registration Act, 1908.

12. In respect of other allegations, if any raised, the National Commission for Scheduled Castes has to adjudicate on merits and in accordance with law.

13. In view of the facts and circumstances, the recommendations of the National Commission for Scheduled Castes to the Registration Department Officials that the original Sale Deed need not be handed over to the buyer stands quashed and the fifth respondent-Registering Authority is directed to return the document, which was already registered to the petitioner, within a period of two weeks from the date of receipt of a copy of this order and by following the procedures.



14. With the above directions, the writ petition stands allowed.

However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

11-07-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn

To

- 1.The National Commission for Scheduled Castes,
5th Floor, Loknayak Bhawan,
Khan Market,
New Delhi-110 003.
- 2.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.
- 3.The Deputy Inspector General of Registration,
Salem.
- 4.The District Registrar,
Krishnagiri,
Krishnagiri District.



WP No.18559 of 2



5. The Joint Sub Registrar No.2,
Krishnagiri,
Krishnagiri District.

WEB COPY



WEB COPY

WP No.18559 of 2



S.M.SUBRAMANIAM, J.

Svn

WP 18559 of 2023

11-07-2023