



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19920 of 2023

P.Thambidurai

... Petitioner

Vs.

1.The Inspector General of Registration,
O/o. The Inspector General of Registration,
No.100, Santhome High Road, Chennai 600 028.

2.The District Registrar (Administration) (AIG cadre)
O/o. The District Registrar (Central Chennai)
First Floor, Integrated Registration Building,
Bharathi Road, Royapettai, Chennai 600 014.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to directing the respondent to consider the petitioner's representation application dated 07.01.2022, to issue Original Sale Deed which consist of 5 pages bearing Doc.No.2053/2012, Book-1, dated 24.05.2011 on the file of SRO Villivakkam, in favour of the petitioner's father Mr.S.Puthiyavan.

For Petitioner

: Mr.J.Milton Arul Rajendran

For Respondents

: Mr.D.Ravichander
Special Government Pleader



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ORDER

The writ of Mandamus has been instituted to consider the petitioner's application dated 07.01.2022, to issue Original Sale Deed, which consist of 5 pages bearing Doc.No.2053/2012, Book-1, dated 24.05.2011 on the file of SRO Villivakkam, in favour of the petitioner's father Mr.S.Puthiyavan.

2. The petitioner states that he possessed the property situated at Korattur Village, Ambattur Taluk, comprised in Survey No.59/A, Plot No.8A, Siyathamman Nagar, Korattur, Chennai – 600 076, measuring to an extent of 15759 Sq.ft. of vacant housing land, situated within the Sub Registration District of Villivakkam and Registration District of Chennai Central from the petitioner's father Mr.S.Puthiyavan, vide Registered Settlement Deed No.1489/2014 dated 09.12.2013 on the file of SRO, Madhavaram.

3. The grievances of the writ petitioner is that the Sale Deed dated 24.05.2011 has not been returned by the Registering Authority to the father of the writ petitioner. The father of the writ petitioner died without receiving the original sale deed of the year 2011.



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4. The learned counsel for the petitioner states that the document originally registered was not returned, since it would be referred under Section 47-A of the Indian Stamp Act to the Deputy Collector (Stamps), who in turn, determined the stamp to be paid and accordingly sent back the document to the Registering Authority. However, the Registering Authority has not returned the document. It is not made clear, whether the stamp duty determined by the Deputy Collector (Stamps) has been paid or not.

5. The Power of Attorney Holder or the father of the petitioner has also not taken immediate steps to get back the original document from the Registering Authorities. Now 12 years lapsed. At this point of time, the petitioner also has produced certain other documents relating to the subject property.

6. The learned Special Government Pleader appearing on behalf of the respondents raised an objection by stating that the sale deed originally presented by the father of the writ petitioner Mr.S.Puthiyavan through his Power of Attorney Holder Mr.D.Hema Kumar was registered and sent for determination of stamp duty under Section 47-A of the Indian Stamp Act.



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After determining the stamp duty to be paid, the documents are to be returned to the Registering Authority and thereafter it will be handed over to the person, who presented the document or the person authorized to receive the document under the provisions of the Registration Act. Therefore, it is for the person, who presented the document to receive the document from the office of the Sub-Registrar concerned. Now 12 years lapsed and verification of records would show that the document sent for determining the stamp duty under Section 47-A was returned back. There are certain discrepancies with reference to the documents produced by the petitioner even in the present writ petition.

7. The Sale Deed dated 24.05.2011 registered by the father of the writ petitioner Mr.S.Puthiyavan through his vendor's power holder reveals that the said property is to an extent of 15,000 Sq.ft, which the petitioner states, it is an error. However, the Sale deed dated 24.05.2011 produced with the seal of the Sub-Registrar and the certified copy obtained by the petitioner reveals that the extent of property is only 759 Sq.ft. The petitioner filed a writ petition in W.P.No.27183 of 2012 and this Court passed an order on 05.10.2012, directing the authorities to finalize the 47-A proceedings as expeditiously as



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possible. Though the 47-A proceedings were concluded, the petitioner has not initiated any appropriate steps to get back the original document. However, the Settlement Deed executed by the father of the writ petitioner, which was registered in the office of the Sub-Registrar, Madhavaram reveals that the extent of the property is 15759 sq.ft.

8. Series of discrepancies in various documents registered through the Power of Attorney Holder raises a doubt in the mind of the Court. On the one hand, the petitioner states that the original owner Mr.S.Puthiyavan executed the sale deed in favour of the father of the writ petitioner through his Power of Attorney Holder Mr.D.Hema Kumar. The father of the petitioner executed the Settlement Deed. The said Settlement Deed was not registered in the office of the Sub-Registrar at Villupuram, but registered in the office of the Sub-Registrar at Madhavaram. The said document reveals that the extent of the land is 15759 sq.ft. The certified copy of the sale deed obtained by the petitioner from the office of the Sub-Registrar, Villupuram reveals that the extent of the property is 759 Sq.ft.



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9. The petitioner Mr.P.Thambidurai is present before this Court along with the Power of Attorney Holder Mr.D.Hema Kumar. The petitioner is not aware of all these complications and he is unable to identify the boundaries of the properties. He says that some houses are there and therefore, it is apparently clear that he is not in a possession of the property. The petitioner in person says that he is doing business and he is not aware of these aspects. His father purchased the property from Mr.S.Puthiyavan, who had executed Power of Attorney in favour of one Mr.D.Hema Kumar to sell the property. The statement given by the petitioner before this Court is also not satisfactory, as the petitioner himself is unable to identify the property or clarify the meets and bounds of the property with reference to the documents, which all are written in Tamil Language. The petitioner deposed that he studied up to 10th Standard and running a business in Chennai City. Further, he states that he can read Tamil Language and understand the contents.

10. Therefore, this court is of the considered opinion that the relief as such sought for in the present writ petition cannot be granted, since there are discrepancies with reference to the documents furnished by the petitioner even before this Court and the petitioner is unable to clarify the same. The



petitioner, admittedly, is not in possession of the said property and dealing with the property through Mr.D.Hema Kumar, who was the Power of Attorney Holder for the original owner Mr.S.Puthiyavan from whom the father of the petitioner purchased the property.

11. In view of the doubtful facts and circumstances, the writ Court cannot grant any relief to the petitioner.

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

07.07.2023

Jeni/Kak

Index : Yes

Neutral Citation : Yes

Speaking order

To

1.The Inspector General of Registration,
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S.M.SUBRAMANIAM, J.

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