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W.P.No.10805 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10805 of 2017
and
W.M.P.No.11748 of 2017
and
W.M.P.No.26612 of 2022

B.Dayalarajan

...Petitioner

Vs.

1.Union of India,
Union Territory of Puducherry,
Rep.by the Special Secretary
(Revenue)-Cum-Collector,
Puducherry.

2.The Sub/Deputy Collector (Revenue) North,
Office of the Deputy Collector (Revenue) (North)
Puducherry.

3.The Sub/Deputy Collector (Revenue) South,
Office of the Deputy Collector (Revenue) (South)
Villianur, Puducherry – 605 010.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to (i) the order bearing No.4377/ DCRS/ SM/B4/2016 dated 14.12.2016 on



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the file of the 3rd respondent and (ii) order bearing No.8808/DRDM/C2/SM/2016 dated 16.3.2016 on the file of the 1st respondent and quash the same in so far as the same is against the petitioner and consequently direct the respondents to comply with Rule 50 of the Pondicherry Minor Minerals (Concession) Rules 1977 and refund the Security Deposit Amount of Rs.3,63,000/- along with interest at 12% per annum from 1.1.2001 and return the original Sale Deed dated 09.2.1998 (registered as Doc. No.504/1998) given by the petitioner in proof of his solvency and as Security to the petitioner.

For Petitioner : Mr.T.M.Naveen

For Respondents : Mr.M.Nirmal Kumar
Government Advocate (Puducherry)

ORDER

The writ petition has been filed, questioning the validity of the order passed by the 3rd respondent in proceedings dated 14.12.2016 and the order of the 1st respondent dated 16.03.2016.

2. The original petitioner died during the pendency of the writ petition. Thus, the learned counsel for the petitioner made a submission that the original documents pertaining to the immovable property submitted by the original petitioner at the time of submitting Solvency Certificate to



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participate in the tender process is to be returned back to the legal heirs of the writ petitioner. The deposit made by the original petitioner was refunded after filing of the writ petition by the petitioner. However, the original documents are to be returned at present.

3. The learned counsel for the petitioner states that at the time of presenting the Solvency Certificate, the original petitioner deposited the title deeds in respect of the property and those original documents are yet to be returned back to the legal heirs of the petitioner. It is contended that the format in the Solvency certificate reveals that the original title deeds are to be deposited along with the deeds, Encumbrance certificate for considering the case of the applicants to participate in the tender process. Thus, the petitioner submitted the original title deeds and the respondents have not returned back the originals nor stated in their counter affidavit that they have returned the documents. Thus, a direction is to be issued.

4. The learned Government Advocate (Puducherry) appearing on behalf of the respondents objected the said contentions by stating that no doubt, the authorities verified the original title deeds at the time of receiving



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the Solvency Certificate. However, the original documents will not be retained by the authorities after considering the application to participate in the process of tender and in the present case, the original documents as of now is not available with the Department and therefore, the claim made by the petitioner cannot be considered.

5. The respondents have stated that they will have to verify the original title deeds for the purpose of ascertaining the genuinity of the Solvency certificate. After verification and after accepting the application, those original documents will be returned back to the persons concerned. Therefore, the claim of the petitioner is based on presumption and cannot be considered.

6. This Court is of the considered opinion that the petitioner has not produced any acknowledgement to establish that the original petitioner had deposited the original documents with the respondent authorities. Contrarily, the petitioner is attempting to draw factual inferences by stating that along with the Solvency Certificate, it is necessary to submit the original title deeds. Per contra, the respondents state that the title deeds are



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received for verification and thereafter, it will be returned back to the applicants.

7. This being the stand taken by the petitioner and the respondents, this Court is not in a position to arrive a concrete decision that the petitioner had deposited the title deeds and not get back the same. With this ambiguity, a writ Court cannot grant the relief to the petitioner by directing the respondents to return the original documents, since no such documents are available with them.

8. Question arises, whether the respondents can issue a non traceable certificate.

9. If at all the petitioner proves that the documents were deposited and thereafter, misplaced by the respondents, then alone, the Court can direct the respondents to issue a non-traceable certificate.

10. In the present case, the very deposit of original title deeds itself has not been proved beyond doubt. Therefore, the petitioner is at liberty to



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institute appropriate action for the purpose of establishing his case that the original petitioner had deposited the title deeds with the Department. If at all the authorities have committed any lapse or otherwise, the petitioner may seek appropriate relief. If the petitioner is unable to prove the deposit of the title deeds with the respondents, then the petitioner has option to get a certified copy of the document by submitting an application before the competent authority, who registered the documents.

11. With these clarifications, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

12.04.2023

Index : Yes
Speaking order
Neutral Citation: Yes
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To

1. The Special Secretary
(Revenue)-Cum-Collector,
Union of India,
Union Territory of Puducherry,
Puducherry.



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S.M.SUBRAMANIAM, J.

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