



W.P.No.28935 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.28935 of 2023
and
W.M.P.No.28504 of 2023

Dhilip Kumar

... Petitioner

versus

1.The Deputy Director (HIU-2(3)]
Directorate of Enforcement,
New Delhi.

2.The Sub-Registrar,
Office of Sub-Registrar,
Tambaram.

..... Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the second respondent to register the sale deed presented by the petitioner pertaining to his properties bearing Plot No.P3, measuring an extent of 1040 sq.ft and Plot No.P5 measuring an extent of 1040 sq.ft, totally 2080 sq.ft, respectively comprised in Survey No.579/1 part and 579/2 part, Patta No.2334 as per Patta old sub division

Pg.Nos.1/11



W.P.No.28935 of 2023

Survey No.579/1A part and 579/2A part now new sub-division survey No.579/1A1A1 part and 579/2A1A, in the layout named 'Sri Sai Avenue' situated at No.9, Nedungundram Village, Vandalur Taluk, Chengalpattu District, unbiased by the attachment order F.No.ECIR/04/DLZO-II/2018/3084, 3082, passed by the first respondent.

For Petitioner : Mr.D.Saikumarran

For Respondents : Mr.Rajinish Pathiyil
Special Public Prosecutor for ED
for R1

Mr.Yogesh Kannadasan
Special Government Pleader for R2

ORDER

The petitioner seeks for a direction to the second respondent to register the Sale Deed in respect of the petitioner's properties bearing Plot No.P3, measuring an extent of 1040 sq.ft and Plot No.P5 measuring an extent of 1040 sq.ft, totally 2080 sq.ft, respectively comprised in Survey No.579/1 part and 579/2 part, Patta No.2334 as per Patta old sub division Survey No.579/1A part and 579/2A part, now new sub-division survey No.579/1A1A1 part and 579/2A1A, in the layout named 'Sri Sai Avenue'

Pg.Nos.2/11



W.P.No.28935 of 2023

situated at No.9, Nedungundram Village, Vandalur Taluk, Chengalpattu District, unbiased by the attachment order dated 15.02.2022 in F.No.ECIR/04/DLZO-II/2018/3084, 3082, passed by the first respondent.

2. The brief facts of the case are as follows :

(i) The petitioner had purchased the subject lands comprised in Plot No.P3, measuring an extent of 1040 sq.ft and Plot No.P5 measuring an extent of 1040 sq.ft, totally 2080 sq.ft, respectively in Survey No.579/1 part and 579/2 part, Patta No.2334 as per Patta old sub division Survey No.579/1A part and 579/2A part, now new sub-division survey No.579/1A1A1 part and 579/2A1A, in the lay-out named 'Sri Sai Avenue' situated at No.9, Nedungundram Village, Vandalur Taluk, Chengalpattu District, by virtue of Sale Agreement dated 24.05.2018 from M/s.Mirik Developers (Pvt) Ltd., now M/s.Grandeur Buildwell (Pvt) Ltd., represented by its Power of Attorney S.Murugan vide Doc.No.1586/2017, on the file of the Sub Registrar, Tambaram. While so, the petitioner has presented the document for registration with the office of the second respondent. However, it was informed by the second respondent that subject properties were attached by the first respondent, vide F.No.ECIR/04/DLZO-Pg.Nos.3/11



W.P.No.28935 of 2023

II/2018/3084, 3082, dated 15.02.2022 and the same is reflected in the Encumbrance Certificate, but as per the Provisional Attachment Order, Chennai Zone, available in the web-site of the Official Enforcement Directorate, there is no attachment order in respect of S.Nos.579/1 part and 579/2 part in Nedungundram Village.

(ii) Originally, M/s.Unitech Ltd., represented by its Authorised Signatory had sold an extent of 10 acres and 86 cents comprised in Survey Nos.33/2A1, 582/3, 592/5, 582/2B, 34/1, 35/1B, 60/5, 60/6A, 60/6B, 61/10, 61/15, 61/6A, 61/7A, 61/7B, 39/3, 580/2, 579/2 and 579/1 to and in favour of M/s.Mirik Developers (Pvt) Ltd., vide Doc.No.8191/2007, dated 31.07.2007 and thereafter, several alienations took place in respect of disputed lands, prior to the Provisional Attachment Order passed by the first respondent. Further, the litigation pertaining to the above attachment order had crept in, subsequent to the purchase of the land by the petitioner's predecessors-in-title and when the above attachment order was passed, the lands were transferred by the previous title holders (i.e) Unitech Limited, because they have sold the properties in the year 2007 itself. Since the



W.P.No.28935 of 2023

petitioner's properties were not part of the Attachment Order, he has given a representation dated 20.09.2023 to the second respondent to permit him to register the document. However, there was no response from the second respondent, and hence, the petitioner is before this Court.

3. The learned counsel for the petitioner submitted that when the petitioner presented the sale deed for registration, the second respondent/registering authority refused to register the same on the ground that the properties of the petitioner was already attached by the first respondent under the Prevention of Money Laundering Act, 2002 (PMLA). However, the petitioner's properties were not part of the Provisional Attachment Order. He further submitted that, in similar matter in W.P.No.19736 of 2023 etc. batch, this Court, by an order dated 04.09.2023, gave directions to the registering authority to register the document, as the subject properties therein are not attached by the first respondent. In the present case, the petitioner's properties have not been provisionally attached and it is not part of the Provisional Attachment Order No.3 of 2022, dated 15.02.2022.



WEB COPY



W.P.No.28935 of 2023



W.P.No.28935 of 2023

WEB COPY

4. It is further submitted by the learned counsel for the petitioner that in the earlier Writ Petitions, the petitioners therein are the third party purchasers. However, in the present case, the petitioner purchased the subject properties directly from the vendor, viz., M/s.Mirik Developers (Pvt) Ltd., now, M/s.Grandeur Buildwell (Pvt) Ltd., represented by its Power of Attorney S.Murugan. The learned counsel for the petitioner also submitted that the subject properties are one among the plots covered in the Survey Number(s) in the earlier Writ Petitions. Now, the petitioner is ready to abide by the directions of this Court and hence, he prayed that a positive direction may be issued to the second respondent to register the document in question.

5. The learned Special Public Prosecutor appearing for the first respondent, by referring to the counter affidavit filed by the first respondent, contended that the Hon'ble Supreme Court is already seized of the matter and also monitoring the cases by appointing retired Judges to find out the other related facets regarding the properties and realize the money and also to repay the same to the investors. Now, the preliminary investigation is



W.P.No.28935 of 2023

under process and as to whether the petitioner's properties are coming under the Provisional Attachment or not, can be decided only after the completion of the investigation. Further, the vendor, namely, M/s.Gradeur Buildwell Private Limited of the writ petitioner is the Benami of the subject properties and several litigations and criminal cases are pending against the vendor. Unless the preliminary investigation is completed, a clean chit cannot be given for registering the documents.

6. Heard both sides and perused the materials available on record.

7. It is seen from the Records that certain proceedings with regard to the subject matter, are pending before the Hon'ble Supreme Court. Now, the first respondent has filed a counter affidavit, wherein it is stated that a preliminary enquiry is pending with regard to the involvement of the alleged properties and also as to whether the vendor of the petitioner is a Benami and that the original company is involved in the alleged offences, which are pending. Unless the preliminary investigation/enquiry is



W.P.No.28935 of 2023

completed, a positive direction as sought for by the writ petitioner cannot be issued.

8. Under the above circumstances, the first respondent is directed to conduct an enquiry and complete the investigation regarding the subject matter of the properties and file a preliminary report within a period of three months from the date of receipt of a copy of this order. The petitioner is at liberty to work out his remedy in the manner known to law, after the outcome of the preliminary enquiry.

9. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

16.11.2023

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
ms

Pg.Nos.9/11



WEB COPY



W.P.No.28935 of 2023

To

- 1.The Deputy Director (HIU-2(3)]
Directorate of Enforcement,
New Delhi.
- 2.The Sub-Registrar,
Office of Sub-Registrar,
Tambaram.



WEB COPY



W.P.No.28935 of 2023

P.VELMURUGAN, J.

ms

W.P.No.28935 of 2023

16.11.2023
(2/2)

Pg.Nos.11/11