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W.P.No.28841 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.28841 of 2023
and
W.M.P.No.28442 of 2023

R.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.3B, measuring an extent of 1361 sq.ft comprised in Survey
No.579/2 part, as per patta old sub division Survey No.579/2A part, then
Survey No.579/2A1 part now new sub division Survey No.579/2A2A1 part

Pg.Nos.1/10



W.P.No.28841 of 2023

and old Survey No.580/2 part, as per patta old sub division Survey No.580/2A part now new sub division survey No.580/2A1A1A part, situated at No.9, Nedungundram Village, Vandalur Taluk, Chengalpattu District unbiased by the attachment order dated 10.05.2023 in 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 property bearing Plot No.3B, measuring an extent of 1361 sq.ft comprised in Survey No.579/2 part, as per Patta old sub division Survey No.579/2A part, then Survey No.579/2A1 part now new sub division Survey No.579/2A2A1 part and old Survey No.580/2 part, as per Patta old sub division Survey No.580/2A part, now new sub division survey No.580/2A1A1A part, situated at No.9,

Pg.Nos.2/10



W.P.No.28841 of 2023

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 land comprised in Plot No.3B, ad-measuring 1361 sq.ft comprised in Survey No.579/2 part, as per Patta old sub division Survey No.579/2A part, then Survey No.579/2A1 part, now new sub division Survey No.579/2A2A1 part and old Survey No.580/2 part, as per Patta old sub division Survey No.580/2A part, now new sub division survey No.580/2A1A1A part, in the lay-out named 'Sri Sai Avenue' situated at No.9, Nedungundram Village, Vandalur Taluk, Chengalpattu District, vide Doc.No.783/2022, dated 02.02.2022 on the file of the Sub Registrar, Tambaram from M/s.Mirik Developers (Pvt) Ltd., now M/s.Grandeur Buildwell (Pvt) Ltd., represented by its Power of Attorney S.Murugan. 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



W.P.No.28841 of 2023

the first respondent, vide F.No.ECIR/04/DLZO-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 website of the Official Enforcement Directorate, there is no attachment order in respect of S.No.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 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 petitioner's



W.P.No.28841 of 2023

property was 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 property of the petitioner was already attached by the first respondent under the Prevention of Money Laundering Act, 2002 (PMLA). However, the petitioner's property was not part of the 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 property has not been provisionally attached and it is not part of the Provisional Attachment Order No.3 of 2022, dated 15.02.2022.



W.P.No.28841 of 2023

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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 case on hand, the petitioner purchased the subject property 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 property is 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.28841 of 2023

under process and as to whether the petitioner's property is 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.28841 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 property 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
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Pg.Nos.8/10



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W.P.No.28841 of 2023

To

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

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

Pg.Nos.9/10



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W.P.No.28841 of 2023

P.VELMURUGAN, J.

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W.P.No.28841 of 2023

16.11.2023
(1/2)

Pg.Nos.10/10