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W.P.No.27578 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.27578 of 2017

and

W.M.P.Nos.29506 & 29507 of 2017

S.A.Natarajan

... Petitioner

Vs.

- 1.The District Registrar,
District Registrar Office,
Rangampalayam,
Erode 638 009,
Erode District.
- 2.The Sub Registrar,
Thingalur Sub Registrar Office,
Thingalur, Perundurai Taluk,
Erode District.
- 3.The District Collector,
Erode Collector Office,
Erode 638 011,
Erode District.
- 4.The Tahsildar
Perundurai Taluk,
Erode District.



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5. The Deputy Superintendent of Police,
Economic Offences Wing-II,
Crime NO.2 of 2012,
Erode,
Erode District.

... 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 relating to the impugned order made in Proc.No.174 of 2017 dated 31.07.2017 passed by the second respondent, quash the same and consequently direct the respondents 1 and 2 to register and release the original sale deed dated 01.02.2017 executed by the Learned I Additional District Court, Erode, in connection with E.P.No.13 of 2015 in O.S.No.188 of 2006.

For Petitioner	: Mr.N.Manokaran
For Respondents	: Mr.D.Ravichander Special Government Pleader

ORDER

The order impugned dated 31.07.2017 rejecting the claim of the writ petitioner to register and release the original sale deed dated 01.02.2017 is under challenge in the present writ petition.



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2. The petitioner states that he entered into an agreement for sale with one Mr.K.S.Kumarasamy and his brother Mr.K.S.Palanisamy, who all are the owners of the subject property. The said Mr.K.S.Kumarasamy and his brother Mr.K.S.Palanisamy failed to execute the sale deed based on the agreement and the petitioner instituted a suit in O.S.No.188 of 2006 on the file of the Learned I Additional District Court, Erode for specific performance.

3. The Suit decreed in favour of the writ petitioner on 21.01.2015 and it reached finality. Pursuant to the decree, the petitioner filed E.P.No.13 of 2015 along with the draft sale deed and the Execution Court has forwarded the draft sale deed to the second respondent / Sub-Registrar for registration. It was received as a pending Document No.4 of 2017, thereupon, the second respondent sent a communication dated 03.04.2017 to the Execution Court stating that the fifth respondent / Deputy Superintendent of Police has sent a communication informing the second respondent that a case in Crime No.2 of 2012 is pending investigation and recommendations are made to attach the said properties to the Government. The proceedings during the relevant point of time were pending before the Government.



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4. The petitioner challenging the said communication filed in the present writ petition mainly on the ground that neither he is connected with the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997 proceedings nor the properties have been involved in the said criminal case. So far, no attachment order has been passed by the Government. Thus, there is no impediment for registering the sale deed pursuant to the decree passed by the Civil Court.

5. The learned counsel for the petitioner reiterated that in the absence of any attachment order by the Government by invoking the powers conferred under the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997, the Registering Authority has no power to refuse registration and thus, the impugned order is to be set aside.

6. The learned Special Government Pleader appearing on behalf of the respondents relying on the counter affidavit filed by the second respondent made a submission that the portion of the subject property belongs to the Government as stated in the order impugned. The said Government property has already been assigned in favour of the Depressed Class Community



people, who all are in possession. All those facts were suppressed by the petitioner in the Civil Suit nor the Official respondents were parties to the Civil Suit. Thus, the decree is not binding upon the Official respondents and that apart, the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997 is a separate proceedings, which is no way connected with the status of the land belonging to the Government.

7. In the context of the said submission, it is relevant to extract the paragraphs in the counter affidavit, which reads as under:

“4. With regard to Para 4 of the affidavit, I submit that a Deed of Sale dated 01.02.2017 executed by I Additional District Judge, Erode on behalf of K.S.Kumarasamy and others in favour of Petitioner in Pursuant to Execution Petition No.13/2015 in O.S.No.188/2006 conveying Hec 3.25.0 in Survey No.65 and Acre 0.52 in Survey No.16/4 of Chinnaveera Sangili Village, Perundurai Taluk was presented for registration on 01.02.2017. When the said Sale Deed was verified with the reads of this respondent, it was found that a case is pending with Economic Offence wing under TNPID Act, 1997 in which the subject



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property is also involved. Hence the said Sale Deed was kept pending under No.4/2017 to examine in detail.

5. With regard to Para 5 of the affidavit, I submit that subsequently the 5th respondent has sent a letter in No.88/I/DSP/EOWII/E/17 dated 24.03.2017 informing this respondent that a case in Crime No.2/2012 under TNPID Act, 1997 is pending in which subject property is involved and proposal has been sent to Government to attach the properties. Further the 4th respondent has sent a letter in NO.14457/2015/A9 dated 15.06.2017 that the subject lands were acquired by Government and assigned to members of Depressed class and the collector has instructed not to register any document without his written permission.

6. With regard to Para 6 of the affidavit, I submit that in view of the communications received from the 4th and 5th respondents, this respondent has informed the petitioner that the Sale Deed of Petitioner could not be registered. The petitioner has sent a representation dated 13.06.2017 to the 1st respondent to direct this respondent to register the subject Sale Deed pending under No.P4/2017. The 1st respondent has called for report from this



respondent and this respondent has submitted a detailed report in No.174/2017 dated 31.07.2017 to the 1st respondent who in turn forwarded the same to the petitioner agreeing the stand of this respondent.”

8. Such disputed issue between the parties cannot be adjudicated in a writ proceeding. On one hand, a criminal case has been registered and the Police sent a communication to the Sub-Registrar not to register the subject property. On the other hand, the Government authorities sent a communication stating that the subject property belonging to the Government was assigned in favour of the Depressed Class Community people.

9. This being the factum established, it is for the petitioner to workout his remedy, since he remains as an agreement holder and in possession of a decree from the Civil Court against the original owners of the property. Thus, the petitioner is at liberty to workout his remedy before the Competent Court of Law in the manner contemplated.



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10. With this liberty, this Writ Petition stands disposed of. No costs.

Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes

Speaking order

Neutral Citation : Yes

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S.M.SUBRAMANIAM, J.

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