



W.P(MD)No.192 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.192 of 2023

and

W.M.P.(MD)Nos.166 & 168 of 2023

A.1303 Madurai Mills Co-operative Housing Society Ltd.,
Represented by its Liquidator,
O/o. Deputy Registrar (Housing),
Baskar Complex,
Chinnachokkikulam,
Madurai-2.

... Petitioner

Vs.

- 1.The District Collector,
Madurai District.
- 2.The District Registrar (Madurai South),
Office of District Registrar,
No.171, Mahal Road,
Madurai-625 001.
- 3.The Tahsildar,
Thirupparankundram Taluk Office,
Thirupparankundram,
Madurai District.
- 4.The Sub-Registrar,
Thirupparankundram Sub-Registrar Office,
D.73, Cokkanathar Street,
Thirunagar 4th Stop,
Madurai-625 006.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records in impugned communication in Na.Ka.No.37433/2022/J1, dated .08.2022 signed on 25.08.2022 on the file of the first respondent and quash the same as illegal.

For Petitioner : Mr.M.K.Govindarajan
for Mr.S.Kumar

For Respondents : Mr.A.K.Manikkam
Special Government Pleader for R1 & R3

: Mr.N.Satheeskumar
Additional Government Pleader for R2 & R4

ORDER

Heard the learned counsel on either side.

2. The writ petitioner is a cooperative housing society. The society is now facing liquidation. The liquidator has been appointed. The liquidator proposed to alienate the available lands. At this stage, at the instance of the third respondent/Thasildar, the first respondent has issued the communication to the second respondent calling upon him not to undertake registration of any transaction pertaining to the petition mentioned properties. The same is questioned in this writ petition.

3. The impugned communication is liable to be set aside primarily on two grounds.



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(a) The Tahsildar has proceeded on the premise that the lands in question were assigned in favour of the society and that the assignment terms and conditions have been breached.

(b) A mere look at the records would indicate that the lands were acquired under the Land Acquisition Act and thereafter, handed over to the petitioner society. Unless the petitioner society had paid the cost, the lands would not have been handed over to the society.

4. I called upon the learned Special Government Pleader to produce the assignment order. The learned counsel appearing for the petitioner has produced the copy of the Judgment dated 31.07.1981 in O.S.No.438 of 1980 etc., batch. It is seen therefrom that the building society had paid a sum of Rs.4,33,666/- as compensation for the lands. A mere look at the said Judgment would indicate that the petitioner had purchased the land in question. There is no assignment. Therefore, the foundational premise on which the Tahsildar proceeded in the matter is erroneous. The first respondent was misdirected by the third respondent. There is no provision in the Registration Act which empowers the first respondent to restrain the registering authority from registering any transaction.



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5. For the aforesaid reasons, the impugned communication is set aside.

The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

01.03.2023

Index : Yes / No
Internet : Yes/ No
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To

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G.R.SWAMINATHAN, J.

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