



WP(MD)No.1102 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **12.12.2023**

CORAM

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.(MD)No.1102 of 2021

Salome Christinol @ Salome Raja

...Petitioner

/Vs./

1.The District Registrar,
Madurai (North),
Madurai.

2.The Sub Registrar,
Thamaraipatti West,
Thamaraipatti,
Melur Taluk,
Madurai District.

...Respondents

PRAYER:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 27.02.2020 made in Appeal No.02/R2/2019, on the file of the first respondent herein, confirming the order dated 20.02.2019 passed by the second respondent herein to register the Sale Deed dated 26.06.2018 in P72/2018 executed in favour of the petitioner and releasing it to the petitioner within a time frame as may be fixed by this Court.



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For Petitioner : Mr.S.Subbiah

Senior Counsel

For Respondents : Mr.K.S.Selvaganesan

Additional Government Pleader

ORDER

The subject matter of challenge in the present writ petition pertains to the proceedings of the first respondent dated 27.02.2020, confirming the decision taken by the second respondent through the impugned check slip dated 20.02.2019, whereby the second respondent refused to register the sale deed dated 26.06.2018, which was pending in Pending Document No.72 of 2018.

2. The case of the petitioner is that the subject properties in S.Nos.138/6, 138/7, 139/2A, 139/3A and 139/3C are punja lands situated at Therku Theru Village, Melur Taluk, Madurai District measuring an extent of 1 acre 6 cents along with a godown to an extent of 9641 sq.ft. belonged to one Udhayanan. The said Udhayanan became the owner of the subject property through three registered sale deeds dated 11.08.2010 (two sale deeds) and 16.08.2010. The further case of the petitioner is that the said Udhayanan also obtained patta in his name in patta No.2968 issued by the Tahsildar, Melur.



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3. The said Udhayanan wanted to sell this property along with the godown to the petitioner for a total sale consideration of 48.50 lakhs. The petitioner also agreed to purchase the same. A sale deed dated 26.06.2018 was executed by the said Udhayanan in favour of the petitioner and it was presented for registration before the second respondent. The second respondent assigned pending document number and thereafter, through a memo dated 20.02.2019 (check slip) returned the document without registering the same on the ground that it is against Section 22A(2) of the Registration Act, 1908.

4. Aggrieved by the same, the petitioner filed an appeal before the first respondent and the first respondent through the impugned proceedings dated 27.02.2020 confirmed the decision taken by the second respondent. Aggrieved by the same, the present writ petition has been filed before this Court.

5. The learned Senior Counsel appearing on behalf of the petitioner submitted that the property that was agreed to be sold in favour of the petitioner was punja land measuring an extent of 1.06 acres along with a godown measuring an extent of 9641 sq.ft. and the age of the building was nearly 25 years. In view of the same, the learned Senior Counsel submitted that the same will not come within the definition of 'layout' as provided under Rule 8 of the



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Tamil Nadu Regularisation of Unapproved Layouts and Plots Rules, 2017

(hereinafter referred to as “Rules” for brevity).

6. The learned Senior Counsel further submitted that the property in question was not a plot and it was only retained as punja land by the vendor and therefore, the same will not come within the definition of 'plot' or 'unapproved plot' as provided under Rule 13 of the Rules. It was contended that refusal to register the document by citing Section 22A(2) of the Registration Act, 1908 and G.O.Ms.No.78, Housing and Urban Development (UD4(3)) Department, dated 04.05.2017, is totally unsustainable. In view of the same, the learned senior counsel sought for interference with the order passed by the first and second respondents and for consequential direction to the second respondent to register the sale deed and to release the same.

7. Per contra, the learned Additional Government Pleader appearing on behalf of the respondents submitted that originally the subject property along with other properties was dealt with as a layout, which was called as Gemi Balaji Nagar. It was an unapproved layout and the said Udhayanan, who had sold the property in favour of the petitioner was the one, who had formed the said unapproved layout and he had also executed a gift deed in favour of the



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panchayat (local body) on 31.05.2016, which document was registered as Document No.822/2016.

8. The learned Additional Government Pleader further submitted that the said Udhayanan had dealt with all the other plots and had sold the same in the year 2012. With respect to the remaining portion, the same was attempted to be sold to the petitioner. On the inspection made by the second respondent, it was ascertained that the subject property that was attempted to be sold to the petitioner also formed part of the unapproved plot and therefore, a decision was taken to the effect that the property cannot be sold without approval and refusal to register such document can be made under Section 22A(2) of the Registration Act, 1908.

9. The short issue that arises for consideration in the present writ petition is as to whether the respondents were right in refusing to register the sale deed that was presented for registration with respect to subject property, which was described as Punja land measuring an extent of 1.06 acres along with a godown measuring 9641 sq.ft.



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10. The respondents have put against the petitioner Section 22A(2) of the Registration Act, 1908 and G.O.Ms.No.78, Housing and Urban Development (UD4(3)) Department, dated 04.05.2017. If the same is put against the petitioner, the subject property must come within the definition of a layout as provided under the Rules.

11. The specific stand that was taken by the learned Senior counsel appearing on behalf of the petitioner is that the vendor of the petitioner never treated the subject land as a plot and it was always treated as punja land along with godown and therefore, it will not come within the definition of a layout and therefore, Section 22A(2) of the Registration Act, 1908 and G.O.Ms.No.78, Housing and Urban Development (UD4(3)) Department, dated 04.05.2017 will have no role to play in the present case.

12. However, the learned Additional Government Pleader submitted that the subject property was part of the layout and while executing the gift deed in favour of the local authorities on 31.05.2016 by the vendor of the petitioner, the subject property also formed part of the layout and for this purpose, a portion of the property was gifted to the local body for the purpose of laying the road for the unapproved plots.



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13. On carefully going through the refusal memo of the second respondent and also the order passed by the first respondent confirming the same, there is nothing to indicate that the subject property also formed part of the original layout, while the gift deed was executed by the vendor of the petitioner in favour of the local body. This is most crucial aspect that has to be considered to come to a conclusion as to whether the subject property also formed part of the original layout or the subject property never formed part of the original layout and it was separately retained by the vendor as punja land along with the godown. If an answer is found out for this issue, it can be easily ascertained as to whether the case comes within the ambit of Section 22A(2) of the Registration Act, 1908. Since there is no discussion regarding the same, this Court has to necessarily remand the matter back to the file of the first respondent only to consider this issue and to pass orders.

14. In the light of the above discussion, the impugned proceedings of the first respondent dated 27.02.2020 is hereby set aside and the matter is remanded back to the file of the first respondent in order to deal with the issue that has been pointed out supra. While dealing with the same, the petitioner shall be afforded with an opportunity and the petitioner will be entitled to present all the



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relevant documents before the first respondent. The first respondent shall pass final orders on its own merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order. It is always open to the petitioner to raise all the issues before the first respondent and the same shall be dealt with by the first respondent.

15. In the result, this writ petition is allowed with the above directions.

No costs.

12.12.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No



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N.ANAND VENKATESH, J.

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Order made in
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Dated:
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