



W.P(MD)No.7932 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:10.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

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R.Vijayabaskar

... Petitioner

Vs

1. The Sub Registrar,
Registration Department, Ottapidaram,
Tuticorin District.
2. The Special District Revenue Officer,
SIPCOT Division, Harbor Bypass Road,
Madathur, Tuticorin- 628 003.
3. The Special Tahsildar (Land Acquisition),
SIPCOT Division, Harbor Bypass Road,
Madathur, Tuticorin- 628 003.

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order of the 1st respondent in his Refusal No.RFL/Ottapidaram/1/2013, dated 12.01.2023 and quash the same and directing the 1st respondent to register the Preliminary Decree in O.S.No.



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23/2014, dated 21.03.2016 and Final Decree in I.A.No. 158/2016 in O.S.No. 23/2014, dated 07.03.2017 on the file of the I Additional District Judge, Tuticorin in the light of the Judgment S. Saravotham Vs Sub Registrar, Oulgaret, Pondicherry, reported in 2019 (2) CWC 314 and order passed in WP.No. 33186 of 2022 dated 09.12.2022, within the time stipulated by this Court.

For Petitioner	:Mr. V.Karthikeyan
For R1	:Mr.M.Prakash Additional Government Pleader
For R2, R3	:Mr.M.Gangatharan

ORDER

The writ petition has been filed in the nature of Certiorarified Mandamus, seeking interference with a refusal check slip in RFL/Ottapidaram/1/2013, dated 12.01.2023 and consequently direct the first respondent/Sub Registrar, Ottapidaram, Tuticorin District, to register the preliminary decree in O.S.No. 23 of 2014, dated 21.03.2016 passed by the learned I Additional District Judge, Tuticorin and the final decree in I.A.No. 158 of 2016 in O.S.No. 23 of 2014, dated 07.03.2017.

2.The petitioner herein R.Vijayabaskar had earlier filed a O.S.No. 23 of 2014 against three defendants namely V.Krishnamoorthy,



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V.Muthulakshmi and K.Santhanalakshmi. The suit was filed on the strength of mortgage, created by the defendants therein. After trial, preliminary decree was passed on 21.03.2016, directing the defendants to pay the due amount under mortgage, failing which, the property would be brought to sale. Subsequently, the petitioner has also filed I.A.No.158 of 2016 seeking final decree. The final decree was also passed on 07.03.2017.

3.The petitioner had presented the preliminary decree before the first respondent for registration. The first respondent had refused to register the same on the ground that land acquisition has been initiated over the subject property.

4.The learned counsel for the petitioner placed reliance on the Judgment passed by the Division Bench, in ***S. Saravotham Vs Sub Registrar, Oulgaret, Pondicherry***, reported in ***2019 (2) CWC 314***. The subject matter before the Division Bench was with respect of Section 23 of Registration Act, 1908, wherein, beyond the time limit stipulated for presentation of decree, it was presented for registration. The Division Bench was of the opinion that time limit would not apply for decree of Court. The said Judgment has also



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been subsequently followed by learned Single Judge. One such illustration is

WP(MD)No.33186 of 2022, by Judgment dated 09.12.2022, M.Venkatesan Vs. The District Registrar (Administration) and another. However, those Judgments would not come to rescue of the petitioner herein.

5.The refusal check slip issued in the subject matter is with respect to land acquisition, which is neither denied or disputed by any of the parties. The SIPCOT had been added as second and third respondents herein. In this connection, it would be only appropriate to refer Section 11(4) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 , which is as follows:

11.Publication of preliminary notification and power of officers.–

(4) No person shall make any transaction or cause any transaction of land specified in the preliminary notification or create any encumbrances on such land from the date of publication of such notification till such time as the proceedings under this Chapter are completed:

Provided that the Collector may, on the application made by the owner of the land so notified, exempt in special circumstances to be recorded in writing, such owner from the operation of this subsection:

Provided further that any loss or injury suffered by any person due to his wilful violation of this provision shall not be made up by the Collector.

The said provision provides a statutory bar for any transaction to be made,



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after notification had been issued, with respect to acquisition of lands.

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6.The petitioner cannot claim title, since he is only a mortgagee.

However, the learned counsel for the petitioner states that when compensation is paid, the decree should be recognised by the second and third respondents and the amount under the decree should be paid out of the compensation determined by the respondent herein. But that does not give a right to the petitioner to register the decree.

7.The petitioner can give an independent representation before the second and third respondents about the decree obtained in favour of the petitioner herein. Since it is a Court decree and has been lawfully obtained, the second and third respondents and also bound by the same. If any award amount is directed to be deposited in Court, then the second respondent may issue notice not only to the petitioner, but also to those names found in the revenue records, who are holding title in the property and examine the possibility of apportioning the amount. The registration of decree is not required for that purpose.



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8.The decree is still a document, which has to be given due respect by the second and third respondents. They cannot deny or dispute the decree. The only persons who can dispute the decree are the defendants, since they are bound by the decree. The relief sought by the petitioner is dismissed. The dismissal should not preclude the second and third respondent, in considering the representation given by the petitioner herein.

9.In view of the above facts, this Writ Petition stands dismissed.

No costs.

10.04.2023

NCS :Yes/No
Index :Yes/No
Internet:Yes/No
PNM

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C.V.KARTHIKEYAN,J.

PNM

ORDER IN
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