

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2023

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THE HONOURABLE MS.JUSTICE P.T.ASHA

WP(MD)No.16366/2020

Ramasamy

... Petitioner

Vs.

1.The Sub Registrar,
Sanarpatti Sub Registration Office,
Sanarpatti, Dindigul District.

2.The Tamil Nadu Boodhana Board,
Represented by its Chairman,
Maduai.

... Respondents

(R2 is *suo motu* impleaded vide Court order dated 01.07.2022)

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of the first respondent dated 17.02.2020 refusing to register the petitioner's sale deed pending as Document No.53 of 2017, dated 11.12.2017 with regard to the landed property to an extent of 5 Acres in S.No.982/3B at Anjukulipatti Village, Dindigul East Taluk, Dindigul District and quash the same as illegal and consequently direct

the first respondent to entertain the sale deed in pending Document No. 53 of 2017 dated 11.12.2017 submitted by the petitioner and register the same and release the same within the time stipulated by this Court.

For Petitioner : Mr.J.Lawrance
For Respondents : Mr.C.Satheesh,
Government Advocate for R1

ORDER

The above writ petition has been filed to quash the impugned order of the first respondent dated 17.02.2020 refusing to register the petitioner's sale deed, which is kept pending as Document No.53/2017 in respect of the property measuring an extent of 5 Acres in S.No.982/3B at Anjukulipatti Village, Dindigul East Taluk, Dindigul District and direct the first respondent to register the said sale deed.

2. The facts in brief which constrained the petitioner to approach this Court are herein below set out.

2.1. It is the case of the petitioner that an extent of 14 acres 4 cents comprised in S.No.982/3 at Anjukulipatti Village, Dindigul East Taluk, Dindigul District belong to his grandfather Palanichamy Ambalam under a registered sale deed dated 08.11.1963. This property originally belonged to one Meenammal. In the year 1923, Meenammal had sold this property to Periyasamy Naicker, who had then sold it to one Krishnamurthy and Krishnamurthy in turn sold it to the petitioner's grandfather. From the date of purchase, the petitioner's grandfather has been in absolute possession and enjoyment of the property. The revenue records have been mutated in the name of his grandfather. On 14.12.1973, his grandfather had executed a settlement deed in favour of the petitioner and his brother Kedikoothan. At that time, the petitioner and his brother were minors and their father was appointed as guardian. After attaining majority, they became the absolute owners of the property.

2.2. It appears that, in the year 1991, the Tamil Nadu Bhoodhan Yagna Board, Madurai (herein after referred as 'the Board') claimed right over the property to an extent of 10 acres out of the total extent of 14

acres and 4 cents stating that the land was gifted to the Board by one Meiyappan Ambalam under gift deed dated 15.12.1954, which constrained the petitioner and his brother to file a suit in OS.No. 177/1985 on the file of the District Munsif Court, Dindigul against the Board for declaration that the petitioner and his brother were absolute owners of the entire extent of land covered in S.No.983/3. The learned Judge concluded that the petitioner and his brother were the owners of the land in S.No.982/3A and in so far as S.No.982/3B, the claim of the petitioner and his brother was dismissed. However, the learned Judge held that the petitioner and his brother were in possession and enjoyment of the entire extent of the land. Aggrieved by the same, the petitioner and his brother have filed AS.No.31/1993 on the file of the Additional Sub Court, Dindigul. As against the relief of injunction with respect to an extent of 10 acres, the Board has filed its cross appeal. Ultimately, by the Judgment and Decree dated 30.06.1993, the appeal filed by the petitioner and his brother was allowed and the cross appeal filed by the Board was dismissed.

2.3. Pursuant to the Judgment and Decree, patta was granted in Patta no.1117 and revenue records were mutated in the name of the petitioner and his brother. The petitioner's brother passed away on 28.12.2004, leaving his wife Chinnammal, daughter Priyanka and two sons Karthick and Arunkumar as legal heirs. The legal heirs of the petitioner's brother, thereafter, approached the petitioner with a request to purchase their half share of the property, for which the petitioner agreed. Accordingly, the petitioner's father and the legal heirs of the petitioner's brother have executed a sale deed dated 11.12.2017 in favour of the petitioner. The said sale deed was submitted for registration before the first respondent. Though the petitioner had provided all the revenue records and documents to show their title to the property, the first respondent has refused to register the same and kept the same pending in Document No.53/2017. Therefore, the petitioner had filed WP(MD)No. 13148/2018 for a mandamus directing the first respondent to release the document after registering it. While the said writ petition was pending, the impugned order dated 17.02.2020 was passed by the first respondent,

wherein they had refused to register the document since No Objection Certificate had not been obtained from the Tahsildar, Dindigul East Taluk, Dindigul District as well as the Board. It is aggrieved by this order that the petitioner is before this Court.

3. The learned counsel appearing for the petitioner would submit that the title of the petitioner and his brother to the property has been confirmed by the Judgment and Decree dated 30.06.1993 in AS.No. 31/1993 by the Additional Sub Court, Dindigul and through the same, the claim of the Board was rejected. Such being the case, the reason for refusal is absolutely misplaced and the impugned order has to be set aside and the first respondent ought to be directed to register the sale deed and release the sale deed to the petitioner.

4. The learned counsel appearing for the first respondent would submit that it is not known as to whether the Board, the second respondent herein has filed a further appeal against the Judgment and Decree dated 30.06.1993 in AS.No.31/1993 and that is the reason why

the first respondent had insisted upon the petitioner obtaining No Objection Certificate.

5. Heard the learned counsels on either side.

6. The arguments of the learned counsel for the first respondent and the reasons given for refusing the registration are absolutely fallacious. The petitioner has produced the Judgment and Decree of the Civil Court, which after considering the evidences on record has declared the tile of the petitioner and his brother to the property in question and further rejected the claim of the Board. Pursuant to the Judgment and Decree of the Civil Court, the revenue records have also been mutated in the name of the petitioner and his brother and in these given circumstances, the insistence of No Objection Certificate from the Board and Tahsildar, Dindigul East Taluk, Dindigul is absolutely without any basis and requires to be rejected.

7. Therefore, the writ petition is allowed. The impugned order of the first respondent dated 17.02.2020 is set aside. The first respondent is directed to register the sale deed and hand over the registered document back to the petitioner within a period of two weeks from the date of receipt of a copy of this order. No costs.

23.03.2023

NCC:Yes/No

Index:Yes/No

Speaking/Non-speaking order

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To

- 1.The Sub Registrar,
Sanarpatti Sub Registration Office,
Sanarpatti, Dindigul District.
- 2.The Chairman,
The Tamil Nadu Boodhana Board,
Madurai.

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P.T.ASHA, J.

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