



W.P.(MD)No.17542 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.10.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.17542 of 2020

S.Balakrishnan

... Petitioner

Vs.

1.The District Registrar,
O/o. the District Registrar,
Tirunelveli.

2.The Joint Sub-Registrar No.II,
O/o. Joint Sub-Registrar,
Tirunelveli.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent No.2 herein to register and release the pending document No.29/2007 on the file of Respondent No.2 in pursuance of the order dated 17-07-2020 passed by Respondent No.1 within a time frame as may be fixed by this Court.

For Petitioner

: Mr.Y.Prakash

For R-1 & R-2

: Ms.D.Farjana Ghoushia,
Special Government Pleader



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ORDER

This Writ Petition has been filed for the issue of writ of mandamus directing the second respondent to register the sale deed and release the same in line with the orders passed by the first respondent dated 17.07.2020.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

3. The case of the petitioner is that the subject property was sought to be purchased by the petitioner from one Arumugam. After negotiations, the petitioner agreed to purchase the property for a total sale consideration of Rs.25,000/- (Rupees Twenty Five Thousand only) and the said amount was also paid. After the execution of the sale deed, all of a sudden, the said Arumugam started demanding for further sale consideration and he refused to go over the office of the Sub Registrar to register the sale deed.



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4. In view of the above, the petitioner presented the sale deed before the second respondent and sought for compulsory registration in terms of Sections 25 and 36 of the Registration Act, 1908. The sale deed was taken on file and it was assigned pending Document No.29 of 2007. Thereafter, the first respondent initiated enquiry proceedings. In the meantime, the said Arumugam filed a suit in O.S.No.618 of 2010 before the I Additional District Munsif seeking for the relief of permanent injunction against the petitioner. He died during the pendency of the suit and his legal representatives were impleaded. Ultimately, after contest, the suit was dismissed by Judgment and decree dated 04.06.2010. This was further confirmed in the appeal in A.S.No.89 of 2010.

5. The above developments were brought to the notice of the second respondent and in spite of the same, the second respondent passed an order refusing to register the sale deed. Aggrieved by the same, the petitioner filed an appeal before the first respondent and the first respondent through an order dated 17.07.2020, directed the second respondent to register the pending document within a period of thirty (30) days from the date of the order. The grievance of the petitioner is that in



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spite of the orders passed by the first respondent, the second respondent did not register the sale deed and release the document. Aggrieved by the same, the present Writ Petition has been filed before this Court.

6. The second respondent has filed a counter-affidavit. The relevant portion in the counter-affidavit is extracted hereunder:

“It is submitted that the petitioner has sent another representation dated 07.10.2020 to register the pending document. The first respondent has passed an order dated 17.07.2020 to register the document within a period of thirty days and the petitioner ought to have submitted the document on or before 17.08.2020, but the petitioner has presented only on 30.09.2020. As per Section 73 of the Registration act, the sale deed to be registered within thirty days from the date of order. But the petitioner has belatedly submitted the sale deed which cannot be condoned as there is no provisions under the Act. Therefore, the petitioner’s representation was rejected by the first respondent vide Na.Ka.No.106/A1/2012 dated 04.02.2021 and the same was sent to the petitioner. The petitioner if aggrieved over the order has to prefer an appeal in accordance with



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law. The present Writ Petition has become infructuous as the petitioner's representation was duly considered and rejected by the first respondent on 04.02.2021."

7. It is not in dispute that the first respondent has already passed an order on 17.07.2020, directing the second respondent to register the document within a period of thirty (30) days. The second respondent has not registered this document only on the ground that the petitioner had submitted the document beyond the period fixed by the first respondent. Accordingly, the second respondent has refused to register the document.

8. In the considered view of this Court, the petitioner has been running from pillar to post to get the document registered from the year 2006 onwards. In spite of succeeding before the Civil Court and in spite of having a favorable order from the first respondent, it is not fair to keep the petitioner in limbo. Hence, this Court is inclined to direct the second respondent to register the sale deed and to release the document to the petitioner.



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9. In the result, this Writ Petition is disposed of with a direction to the second respondent to register the sale deed that is kept as pending document No.29 of 2007 and to release the document to the petitioner within a period of two (2) weeks from the date of receipt of a copy of this order. No costs.

06.10.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
tsg

To

- 1.The District Registrar,
O/o. the District Registrar,
Tirunelveli.
- 2.The Joint Sub-Registrar No.II,
O/o. Joint Sub-Registrar,
Tirunelveli.



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N.ANAND VENKATESH, J.

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