

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.19540 of 2020

and

W.M.P.(MD) No.16276 of 2020

V.Selvaraj

.. Petitioner

Vs.

1.The Inspector General of Registration,
Office of the Inspector General of Registration,
Chennai-28.

2.The Tahsildar,
Office of the Tahsildar,
Karaikudi, Sivagangai District.

3.The Joint II Sub Registrar,
Karaikudi, Sivagangai District.

4.The Special Officer,
The Tamilnadu Boomidhan Board,
Chennai-5.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings issued by the third respondent in his proceedings in refusal check slip refusal number:

RFL/2 No.Joint Sub Registrar Karaikudi/1/2020, dated 08.05.2020 and the consequential order passed by the second respondent impugned proceedings in O.Mu.Aa2/3361/2020 dated 28.08.2020, quash the same as void and illegal and consequently direct the third respondent herein to register the document presented by the petitioner on 08.05.2020 within the time stipulated by this Court.

For Petitioner : Mr.B.Jameel Arasu

For Respondents : Mr.M.Prakash
Additional Government Pleader

ORDER

The petitioner prays for issue of a Writ of Certiorarified Mandamus calling for the records of the third respondent in respect of his refusal check slip bearing No.RFL/2 No.Joint Sub Registrar Karaikudi/1/2020, dated 08.05.2020 and the consequential order passed by the second respondent O.Mu.Aa2/3361/2020 dated 28.08.2020, quash the same as void and illegal and consequently direct the third respondent to register the document presented by the petitioner on 08.05.2020.

2. The petitioner would submit that one Rakappan Ambalam owned an extent of 11 acres and 93 cents in S.No.138/1 of Amaravathi

Village, Karaikudi Group. The revenue records also stood in the name of the said Rakappan Ambalam. Thereafter, he had plotted out a portion of the land into house sites and sold them to several persons one of whom was the petitioner's mother Indira. She had purchased the property on 25.08.2000 from the said Rakappan Ambalam under a registered sale deed bearing Document No.2511/2000. The said Indira had purchased two plots bearing Plot Nos.26 and 27, which were subsequently subdivided and after the subdivision, his mother had settled the two plots, in his favour (Plot No.16) and in favour of his brother (Plot No. 27). Subsequently, the revenue records were also mutated in their respective names.

3. The petitioner would further submit that both in front of his brother's house as well as in front of his house, the land had been left vacant. While so, when the adjacent plot owner one Guruchandran decided to sell his plots, and when he presented the document for registration before the third respondent, the third respondent refused to accept the same stating that the lands were covered under the Boomidhan

Yagna Board and therefore, it cannot be sold to any one. He therefore, directed the said Guruchandran to obtain No Objection Certificate from the second respondent. When the said Guruchandran had approached the second respondent, he refused to issue No Objection Certificate stating that the property belonged to the fourth respondent, that is, the Tamil Nadu Boomidhan Board. Thereafter, when he approached the third respondent with all the documents clearly explaining that he had purchased the property from its lawful owners, the third respondent without even advertng to the contentions, issued proceedings dated 20.06.2016. This order was challenged by the said Guruchandran in W.P. (MD) No.12483 of 2016 and by an order dated 25.07.2016, the writ petition was allowed. The third respondent was directed to register the document presented by the writ petitioner therein viz., Guruchandran in respect of the property in S.No.138/1.

4. The petitioner would further submit that he has now decided to sell Plot Nos.26 and 27 in favour of one Pandiselvam and when the document was presented before the third respondent on 08.05.2020, the

document was kept pending with the third respondent and till date, the same has not been registered, since the third respondent directed the petitioner to get No Objection Certificate from the second respondent. Since the land does not come under the 4th respondent/Board, the petitioner had approached the third respondent once again to register the sale deed dated 08.05.2020. The third respondent, however, issued a refusal check slip dated 28.08.2020. Therefore, the writ petitioner has come before this Court.

5. Heard the learned counsel on either side.

6. Despite earlier orders passed by this Court in W.P.(MD) No. 12483 of 2016, in respect of the very same survey number, it is strange that the second and third respondents once again insist upon No Objection Certificate from the fourth respondent. In the earlier writ petition, this Court, after considering the law on the subject, had ultimately held as follows:

“23. In the result, the writ petition is allowed, leaving the parties to bear their own costs. The

impugned orders dated 14.10.2015 of the third respondent/ Tahsildar, Karaikudi, Sivagangai District and the consequential order, dated 20.06.2016, passed by the fourth respondent/ Joint II Sub-Registrar, Karaikudi, Sivagangai District, are set aside by this Court for the reasons assigned in this writ petition.

24. In view of the fact that this Court has allowed the present writ petition, as a logical corollary, the 4th respondent/Joint II Sub-Registrar, Karaikudi, Sivagangai District is directed to register the document presented by the petitioner for registration pertaining to the land in Sy.No.138/1 of Amaravathi Village, Amaravathi Pudur Group, Karaikudi, if such document(s) satisfy the conditions laid down under the Registration Act or any other enactments governing such registration.”

7. This order would enure to the petitioner's case, as the land that is subject matter of the refusal check slip is also comprised in S.No.138/1. There is nothing to show that the earlier order had been the subject matter of challenge. In the given circumstances, this Writ Petition is therefore, allowed, the impugned proceedings dated 08.05.2020 passed

by the third respondent and the consequential order passed dated 28.08.2020 passed by the second respondent are quashed and the third respondent is directed to register the document presented by the petitioner for registration pertaining to the land in S.No.138/1 of Amaravathi Village, Karaikudi Group, if such document(s) satisfies the conditions laid down under the Registration Act or any other enactments governing such registration within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

20.03.2023

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

abr

To

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Office of the Tahsildar,
Karaikudi, Sivagangai District.

P.T.ASHA, J.

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3.The Joint II Sub Registrar,
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