



W.P.(MD)No.18730 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.10.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.18730 of 2020

Latha

... Petitioner

Vs.

1.The Sub Registrar
Thiruverambur Sub Registrar Office,
Trichy -620 013.

2.The District Registrar (Administration),
District Registrar Office,
Court Campus,
Trichy – 620 001.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st respondent to register the sale deeds of the buyers of the plots of land from the petitioner in old S.No.86 and new S.No.310/5 in Navalpatti Village, Thiruverambur Taluk, Trichy District.

For Petitioner

: Mr.M.Kumar

For R-1 & R-2

: Mr.A.K.Manikkam,
Special Government Pleader



W.P.(MD)No.18730 of 2020

WEB COPY

ORDER

This Writ Petition has been filed for the issue of writ of mandamus directing the first respondent to register the sale deeds presented for registration while selling the plots that have been developed in the subject property in Old Survey No.86 and New Survey No.310/5 in Navalpatti Village, Thiruverambur Taluk, Trichy District.

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 originally owned by one Sevu Malavarayar by virtue of a registered sale deed dated 25.06.1959. After his demise, the revenue records stood transferred in the name of his daughter. The petitioner and her brother had purchased the subject property totalling an extent of 17.50 cents from the daughter of the original owner of the subject property. The petitioner and her brother after purchasing of these properties, were in possession and enjoyment of the property for more than nearly thirteen years. The petitioner and her brother wanted to develop the property by putting up



W.P.(MD)No.18730 of 2020

plots and accordingly, the application was submitted for approval before the Directorate of Town and Country Planning and according to the petitioner, approval was also granted.

4. The petitioner, thereafter, took steps to sell the plots and at which point of time, the petitioner found that an entry has been made in the Encumbrance Certificate as if there is a registered agreement executed in the year 2005. In view of the same, the documents that were presented before the first respondent was refused to be registered. The petitioner also made a representation in this regard before the second respondent. The second respondent through the proceedings dated 31.08.2020 informed the petitioner that unless and otherwise the previous entry made in the year 2005 is cancelled, there is no reason to entertain any documents. Aggrieved by the same, the present Writ Petition has been filed before this Court.

5. In the considered view of this Court, the mere registration of an agreement of sale, by itself, will not stop the owner of the property from dealing with the same. If any agreement has been made in favour of



W.P.(MD)No.18730 of 2020

WEB COPY

the person and sale deed is not executed in favour of the agreement holder, the agreement holder has to approach a competent Court and seek for a relief. If any transaction takes place during the interregnum, it will be subject to the agreement and the suit, if any, filed. Subsequent to the entry that was made in the year 2005 which shows that there was an agreement of sale, there is no entry found in the Encumbrance Certificate. Therefore, the mere entry in the Encumbrance Certificate, cannot disentitle the owner of the property from dealing with the property. The petitioner and her brother had purchased the property in the year 2007 and they are in possession and enjoyment of the same and they have also obtained necessary permission from the DTCP for sale of plots.

6. In view of the same, the entry made in the Encumbrance Certificate during the year 2005 cannot be put against them and they must be permitted to deal with the plots.

7. In the light of the above discussion, any sale deed that is submitted for registration pertaining to the subject property, must be entertained by the first respondent, subject to the fulfilment of the payment



W.P.(MD)No.18730 of 2020

of the stamp duty and registration charges and document must be released.

WEB COPY

There can be no restraint on the first respondent registering the documents unless a competent Court has injuncted / restrained the first respondent from entertaining the documents. This clarity will sufficiently take care of the grievance expressed by the petitioner.

8. This Writ Petition is disposed of with the above directions.

No costs.

09.10.2023

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

To

1.The District Registrar (Admin),
Madurai District, Mahal, Madurai

2.The Sub Registrar,
Tirupparankundram,
S.R.O., Madurai.



WEB COPY



W.P.(MD)No.18730 of 2020

N.ANAND VENKATESH, J.

tsg

W.P.(MD)No.18730 of 2020

09.10.2023