



W.P(MD)No.19704 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.19704 of 2022

and

W.M.P.(MD)No.14377 of 2022

J.Malathy

... Petitioner

Vs.

1.The District Collector,
Collectorate,
Trichy.

2.The Revenue Divisional Officer,
Musiri,
Trichy District.

3.The Tahsildar,
Taluk Office,
Thuraiyur,
Trichy District.

4.The Sub-Registrar,
Sub Registrar Office,
Thuraiyur,
Trichy District.

5.The Managing Director,
TAHDCO (Tamil Nadu Adi Dravidar Housing Development Corporation)
RM3G, 4G3 Contonment,
Trichy.

... Respondents



W.P(MD)No.19704 of 2022

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 relating to the impugned order in Na.Ka.No.277-2/2022, dated 16.08.2022 passed by the fourth respondent and quash the same as illegal and consequently, direct the fourth respondent to register the document dated 10.12.2021 which is numbered P40/2021 within a period that may be stipulated by this Court.

For Petitioner : Mr.N.Mohan

For Respondents : Mr.A.K.Manikkam
Special Government Pleader for R1 to R3 & R5

: Mr.N.Sureshkumar
Additional Government Pleader for R4

ORDER

Heard the learned counsel on either side.

2. The writ petitioner wanted to purchase the petition mentioned land from one Bakkiam and Manickam. She had also paid the necessary consideration. When the sale deed dated 10.12.2021 was presented for registration, the fourth respondent declined to entertain the document. Instead, the impugned proceedings dated 16.08.2022 was issued.

3. The stand of the fourth respondent is that the petitioner must obtain No Objection Certificate from TAHDCO. Therefore the present writ petition came to be filed.



W.P(MD)No.19704 of 2022

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4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the same and grant relief as prayed for.

5. The learned Additional Government Pleader appearing for the fourth respondent drew my attention to the Revenue Standing Order-15(40) and contended that since the land is comprised in Pachamalai Hills, the impugned communication deserves to be sustained.

6. I carefully considered the rival contentions and went through the materials on record.

7. RSO-15(40) reads as follows:-

(40) Hill Tribes:- Conditional assignment:- In the following cases the assignment of land to Malayalis or Sholagas, as the case may be, shall be subject to the conditions that the land shall not be transferred by the assignees to any person outside the class to which they belong without the express sanction of the Divisional Officer, and that, if the land is transferred without such sanction or is attached and sold by any legal process, it shall be liable to resumption by the Divisional Officer without payment of any compensation whatever:-

G.O.1197, dt., 25-5-20

G.O.Ms.507, Rev.dt.23.3.30

B.P.57, dt.7-7-20

B.P.Mis.29, dt.3-4-30

G.O.Mis.3316, Rev.dt.5-9-58



W.P(MD)No.19704 of 2022

I.Pachamalai Hills

(1) Pachamalai taraf

(2) The surveyed hamlets of Valasaikallipatti and Vippantattai in the Krishnapuram taraf.

(3) The surveyed hamlets of Velur (known as Karattur) and Manmalai (second bit) in the Gudamalai taraf.

(4) Manmalai (first bit) taraf excluding Modukkupatti Village.

8. The above RSO may not be sufficient to sustain the impugned communication. This is because, it is completely silent as regards the registration of any deed of conveyance. Since the fourth respondent had specifically stipulated that No Objection Certificate must be obtained from TAHDCO, notice was issued to the fifth respondent. Today, Thiru.D.Anbu Raja, Assistant Manager of TAHDCO is present in person. He categorically states that the District Manager of TAHDCO, Trichy has categorically clarified to him that TAHDCO has nothing to do with the lands in question.

9. The learned Additional Government Pleader would claim that the land in question is a panchami land and that vide order dated 25.11.2022 in W.P. (MD)No.26567 of 2022, the Hon'ble Division Bench had given a direction to the Registering Authority to keep in abeyance the registering process with regard to the panchami lands. There is nothing on record to show that the land in question are panchami lands. In any event, the order of the public authority



W.P(MD)No.19704 of 2022

has to be tested in the light of the reasons set out in the order itself. They cannot be supplemented during arguments.

10. In this view of the matter, the impugned communication is set aside. The Writ Petition is allowed. The petitioner is permitted to re-present the document in question. The fourth respondent shall receive the same and register it subject to fulfilment of the other usual formalities. No costs.

27.02.2023

Index : Yes / No
Internet : Yes/ No
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W.P(MD)No.19704 of 2022

G.R.SWAMINATHAN, J.

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