



Order dated 19.03.2024
in W.P.No.2153 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.03.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No2153 of 2024
and
W.M.P.No.2319 of 2024
--

M.Palaniappan

.. Petitioner

Vs.

1. Union Territory of Puducherry,
Represented by
The District Collector-cum-The Inspector General of Registration,
Vazhudavur Road,
Pettaiyan Chathiram,
Puducherry-605 009.

2. The District Registrar,
Office of the District Registrar,
Registration Department,
Kamaraj Salai, Saram, Puducherry-605 013.

3. The Sub-Registrar,
Office of the Sub-Registrar Office,
Oulgaret, Puducherry-605 013.

4. Omprakash

5. Jeyaprakash

6. Mr.V.Sivasamy

.. Respondents



Order dated 19.03.2024
in W.P.No.2153 of 2024

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Declaration declaring the fraudulent document registration of surplus land, vide (i) Registrar, Oulgalret, Puducherry and (ii) Document No.19553/I/2020, dated 15.10.2020 on the file of the Sub-Registrar, Oulgaret, Puducherry, by the third respondent, as violative of Section 22 of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 and consequently direct the first respondent to recall the documents and take appropriate legal action against all the person, who were all involved in registration of those documents in dubious manner based on the petitioner's representation, dated 31.10.2023.

For petitioner : Mr.Prakash Adiapadam

For respondents : Mrs.V.Usha, Addl.G.P.(Pondicherry) for RR-1 to 3
Mr.Srinath Sridevan, Senior Counsel
for Mr.D.Ravichander for RR.4 and 5
Mr.D.Anbarasu for R-6

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Declaration declaring the fraudulent document registration of surplus land, vide (i) Registrar, Oulgalret, Puducherry and (ii) Document No.19553/I/2020, dated 15.10.2020 on the file of the Sub-Registrar, Oulgaret, Puducherry, by the third respondent, as violative of Section 22 of the



Order dated 19.03.2024
in W.P.No.2153 of 2024

Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 and consequently direct the first respondent to recall the documents and take appropriate legal action against all the person, who were all involved in registration of those documents in dubious manner based on the petitioner's representation, dated 31.10.2023.

2. The case of the petitioner is that the subject property and its larger extent, originally belonged to one Nataraja Mudaliar and after his death, his son Swaminatha Mudaliar succeeded the entire Estate of his father Nataraja Mudaliar. After the demise of the said Swaminatha Mudaliar, the subject property devolved on his two sons, namely N.S.Nedunchezian @ Subramanian and N.S.Vinayagam @ Siva and they succeeded to the property of Swaminatha Mudaliar. The petitioner's vendor S.V.Shanmugan Mudaliar had purchased the said property under sale deed, dated 29.04.1997 from the sons of Swaminatha Mudaliar. The petitioner subsequently purchased the subject property under two registered sale deeds, i.e. (i) vide Document No.2757, dated 16.06.1999 on the file of the District Registrar, Puducherry and (ii) vide Document No.239 of 2000, dated 16.06.1999. At the time of executing the said sale deeds, the market value of the subject properties, was three times of the petitioner's debt. In the said sale deeds, even though the sale consideration was mentioned as Rs.7,80,000/-

Page No.3/23



Order dated 19.03.2024
in W.P.No.2153 of 2024

and Rs.4,20,000/-, the same were paid by way of cash.

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3. Thereafter, the petitioner executed two sale deeds on 31.03.2003, one in favour of D.Rameshwarlal and his son Omprakash, in respect of the land measuring an extent of 4455 Square Feet and the other in favour of his son Jeyaprakash, in respect of the land measuring an extent of 2400 Square Feet. According to the petitioner, the above said transactions were carried out under duress with the sole purpose as security for the debt owed by the petitioner to the said purchasers. Actually, no consideration was paid to the petitioner and the sale deeds were executed only as security for the debt owed to the petitioner. When the documents were presented for registration, the Sub-Registrar, Oulgaret, Puducherry had kept the said documents, i.e. two sale deeds, dated 31.03.2003 as 'pending documents' due to the absence of GLR value (Guideline Register Value) for the said properties, since the said properties were declared as 'surplus land' under the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973. Since the properties were as 'surplus land' under the said Act of 1973, for obtaining GLR value, the petitioner made an application before the appropriate authority/appropriate Court of Law. As the said documents in question were executed only as security purpose, till today, the petitioner has

Page No.4/23



Order dated 19.03.2024
in W.P.No.2153 of 2024

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not taken any steps to obtain the GLR value and the sale deeds in question remained un-registered. In the meanwhile, the petitioner settled the entire debts owed to the purchasers of the land(s), and in the meantime, the said Rameshwarlal, being one of the purchasers, and who is the father of respondents 4 and 5, had died and hence, the petitioner requested the respondents 4 and 5 to come forward to cancel the documents in question and to hand-over all the valuable securities like Promissory Note, Affidavit of Undertaking, which they received as additional security from the petitioner, but they did not come forward to cancel the documents in question and they prolonged the issue for one reason or the other.

4. Subsequently, on 01.09.2003, when the petitioner enquired the Registration Department as to whether the GLR value had been assigned to the said property(ies) or not, at that time only the petitioner came to know that the documents in question were registered on 15.10.2020 itself, which is after lapse of nearly 17 years from the date of execution of the sale deeds in favour of the said Jayaprakash and Omprakash (who are the sons of Rameshwarlal) as Document Nos.19592 of 2020 and 19593 of 2020, both on the file of the Sub-Registrar, Oulgaret, Puducherry, without even knowledge of the petitioner and without even the consent of the petitioner. Even till today, the GLR value had not



Order dated 19.03.2024
in W.P.No.2153 of 2024

been assigned to the landed property(ies) in question and the GLR value was locked by the District Register. Further, there is a bar under Section 22 of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973, to transfer surplus/excess land declared under the said Act. In this case, the property(ies) was declared as surplus land as per Section 11 of the said Act of 1973. But till today, the Government has not provided the GLR value in respect of the property(ies) in question and the documents were kept pending from 2003 for want of GSR value. Further, the then Sub-Registrar, Oulgaret, Puducherry, had registered the document(s) on 15.10.2020 after a lapse of 17 years.

5. The further case of the petitioner is that the stamp duty has to be collected based on the market value of the property prevailing at the time of lifting of the document and not based on the market value of the property at the time of presentation of the document for registration. In this case, the document(s) were said to have been registered only on 15.10.2020 and at that time, the market value of the property was between Rs.7,000/- and Rs.7,500/- per square foot and even as per the GLR value of the adjacent properties, the fourth and fifth respondent have to pay nearly a sum of Rs.7 lakhs towards the stamp duty for registration of the document(s) and the same had not been paid by the respondents 4 and 5 which had caused huge pecuniary loss to the



Order dated 19.03.2024
in W.P.No.2153 of 2024

Government exchequer. The third respondent-Sub.Registrar, without necessary GLR value and proper stamp duty, registered the document(s) in question, in conspiracy with respondents 4 and 5 and that the sixth respondent-V.Sivasamy, the then Sub-Registrar of Oulgaret, is known for corruption/mal-practice and at present, he is placed under suspension.

6. The petitioner further avers that one of the executant, namely Mr.Rameshwarlal had passed away even prior to the registration of the document(s) in question and the document(s) in question were registered without the legal heirs being impleaded or without the knowledge of the petitioner and therefore, they have violated the procedures. The standard procedure is that the buyer or seller must apply before the Sub-Registrar to clear the reasons for document pending for registration.

7. According to the petitioner, the document(s) in question was/were registered after 17 years of the presentation of the document(s) and even without the knowledge of the petitioner and the other executant(s), and hence, the petitioner has made a representation on 31.10.2023 to the respondent(s) to cancel the two sale deeds in question, which were registered, but the respondents did not take any action on the said representation, and hence, the



Order dated 19.03.2024
in W.P.No.2153 of 2024

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petitioner has filed the present Writ Petition for the relief stated supra.

8. The learned counsel for the petitioner submitted that though the document(s) was/were executed in the year 2003 only for the purpose of security, at the time of execution of the document, for want of GLR value, the document(s) was/were not registered. Even today, the GLR value was not fixed and without fixation of the GLR value, the land(s) covered under the Act of 1973 and even without the consent/knowledge of the petitioner and the other executant(s), the document(s) in question were registered. Further, the registration of the document(s) is in violation of Section 22 of the Act of 1973. Therefore, the document(s) registered on 15.10.2020 is liable to be cancelled and the writ petition may be allowed.

9. Learned Additional Government Pleader (Pondicherry) appearing for respondents 1 to 3, by filing counter affidavit, submitted that the document(s) was executed in the year 2003, though it was kept pending for want of GLR value. Subsequently, the Government of Pondicherry, i.e. through the Deputy Collector (Revenue) has given the GLR value on 14.10.2020 with certain conditions, on of which reads as follows:

"e) The GLR value is being granted

Page No.8/23



WEB COPY



Order dated 19.03.2024
in W.P.No.2153 of 2024

subject to the condition that in case of non-availability of the Surplus lands of the assessee, to adjust the same or to make it good, the Authorised officer has the discretion under Section 22 of under the Pondicherry Land Reforms (Fixation of Ceiling on Lands) Act, 1973 to take over the Retention portion of the land and will be declared as Surplus portion in the final proceedings of the above assessee and thereafter will be vested with the Government."

Therefore, the document(s) was registered and the petitioner and the private respondents herein and others, had also subsequently filed a suit in O.S.No.37 of 2005 on the file of the III Additional District Judge, Puducherry, in which I.A.No.544 of 2020 was filed for passing ex-parte ad-interim injunction restraining the respondents therein from trespassing into the items of the suit properties, by disturbing and interfering with the plaintiffs' peaceful possession and enjoyment of the items of the suit properties, till the disposal of the suit. The said I.A. was dismissed for default on 14.12.2022.

10. Learned Additional Government Pleader further contended that the

Page No.9/23



Order dated 19.03.2024
in W.P.No.2153 of 2024

petitioner has admitted the execution of the documents and also for want of GLR value, i.e. normally, the same would be kept pending. Subsequently, the Notification came in the year 2008 and the land(s) was declared under Section 11 of the Act of 1973 as 'surplus land' and Notification was issued under Section 17 of the Act of 1973. Thereafter, the Government has issued GLR value, subject to certain conditions, and therefore, the petitioner approached the Civil Court and the matter is pending before the Civil Court. The petitioner has suppressed the facts and filed the present Writ Petition only in order to escape from the clutches of law and also avoid the penalty under Section 22 of the Act of 1973. Therefore, for these reasons, the Writ Petition is liable to be dismissed.

11. Learned Senior Counsel appearing for respondents 4 and 5, while taking this Court through the counter affidavit, made his submissions on the facts and submitted that if at all the petitioner is aggrieved by execution of the document(s) in question, then his remedy is only to seek for cancellation of the document(s) in question by approaching the Civil Court under Section 31 of the Specific Relief Act. The petitioner is not permitted to question the nature of legality of execution of the document(s) after a lapse of 21 years. Thus, on the ground of delay, the writ petition is liable to be dismissed. The first respondent-



Order dated 19.03.2024
in W.P.No.2153 of 2024

Union Territory of Puducherry did not possess any statutory right to recall any of the documents registered, as decided by the Honourable Supreme Court in the decision reported in 2016 (10) SCC 767, in the case of Sathyapal Anand Vs. State of M.P. in which it was held by the Apex Court that in the absence of express provision under the Registration Act or local law, it is not open to the registering authorities to cancel the registration of already registered document.

12. The learned Senior Counsel appearing for respondents 4 and 5 also contended that the fundamental right of the petitioner as mentioned in Part-III of the Constitution of India is no way affected and the writ petition is misconceived and not maintainable. Further, the petitioner does not have any injury much less a legal injury to maintain the present Writ Petition and when once the petitioner had parted his land(s) way back in the year 2003 itself, he has no right or locus-standi to maintain the instant Writ Petition. The petitioner is not espousing any public cause or is filing a Writ Petition to benefit the public at large. Admittedly, Notification under Section 17(1) of the Act of 1973 having been not issued till today, the respondents 4 and 5 are the legally recognised owner of the property(ies).

13. The learned Senior Counsel further contended that the sale deed(s) in



Order dated 19.03.2024
in W.P.No.2153 of 2024

question, is/are legally valid and duly executed and due consideration was passed. The value of the property(ies) mentioned in the two sale deeds, reflects the true market value of the property(ies). The writ petition is barred under Section 92 of the Indian Evidence Act, as the petitioner has stated contrary to the terms of the Registered document(s). It is strenuously contended by the learned Senior Counsel appearing for respondents 4 and 5 that the document(s) were executed only for the security purpose and the GLR value had not been fixed, as the land(s) were declared as 'surplus land' under the Act of 1973. The process of registration of the document(s) in question is over, as even according to the petitioner, the document(s) was executed and presented and the document(s) was kept as pending document(s). The remedy open for the petitioner is to specifically prove the alleged loan transactions, alleged settlement of loan and the alleged security purpose and then seek to enforce the same. Disputed question of facts cannot be entertained by the Court under Article 226 of the Constitution of India. The relief available to the petitioner is to file a suit for specific performance and not this Writ Petition. The petitioner claims that the impugned sale deeds stand in contravention of the Act of 1973, and he could not be permitted to plead that the documents may be cancelled to confer title upon him and thus, the petitioner could not be permitted to take inconsistent stand in the Writ Petition, which is liable to be rejected.

Page No.12/23



Order dated 19.03.2024
in W.P.No.2153 of 2024

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14. The learned Senior Counsel appearing for the petitioner further submitted that the respondents 4 and 5 have been repeatedly approaching the respondents 1 to 3/official respondents and the Revenue Department seeking for fixation of guideline value and for release of the documents. The Revenue Department, taking into consideration the request of the respondents 4 and 5, wrote to the second respondent, vide proceedings dated 14.10.2020 fixing the guideline value. The learned Senior Counsel appearing for respondents 4 and 5 submitted that said proceedings itself is a deemed permission/approval in terms of Section 22 of the Pondicherry Land Reforms Act, 1973. On receipt of the same, after fixing the guideline value, the third respondent worked out the guideline value and as the document(s) were impounded and after collection of penal interest, the document(s) were released. Further, once the land(s) is declared to be 'surplus' under Section 11 of the Act of 1973, there is a bar under Section 22 of the Act of 1973 to transfer the land(s) and that is the reason as to why the GLR value was not assigned. Moreover, infraction of Section 22 of the Act of 1973 does not invalidate the transfers, rather it creates a charge on the transferred portion and the same becomes enforceable only in the event of non-availability of surplus land from the transferor. The lands transferred to respondents 4 and 5 form part of the retention lands of the land-

Page No.13/23

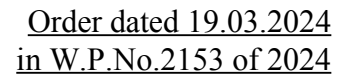


Order dated 19.03.2024
in W.P.No.2153 of 2024

holder/transferor and therefore, GLR value for the same has been assigned and consequently, the procedures for release of the registered documents had been completed and therefore, the present Writ Petition is not maintainable.

15. The learned Senior Counsel appearing for respondents 4 and 5 also submitted that it is settled law that the stamp duty value is prevailing at the time and date of presentation of documents and not on any subsequent days and that in this case, there is no loss to the Government exchequer. When once the document(s) had been executed and registered, the vendor did not have any right to seek for original of the documents and it is for the purchaser to get the same. Instead of resorting to filing the present Writ Petition, the petitioner should have approached the authorities under the Registration Act. The conduct of the petitioner clearly establishes that he has not come to Court with true set of facts and suppressed the material facts. Hence, the Writ Petition may be dismissed.

16. Learned counsel for the sixth respondent, by relying upon the counter affidavit, submitted that the petitioner admitted the execution of the document(s) and even the recitals of the document(s) clearly shows that the petitioner received consideration by cash and he had presented the documents



17. It is the further submission of the learned counsel for the sixth respondent that on the date of execution of the sale deed(s), the Notification under Section 17(1) of the Pondicherry Land Reforms Act, was not issued. According to the sixth respondent, till date, the Notification under Section 17(1) has not been issued. When once the petitioner has received consideration and executed the sale deed(s), he is clearly barred under Section 92 of the Indian Evidence Act to state anything contrary to the terms of the Registered Documents. Since the documents were kept as pending documents due to the absence of the GLR value for the property(ies) in question, the land(s) were treated as 'Surplus land' under the Pondicherry Land Reforms Act. The petitioner ought to have returned the document(s) in question before the appropriate authority seeking for fixation of GLR value, but he did not do so, and



Order dated 19.03.2024
in W.P.No.2153 of 2024

the contention of the petitioner that the document(s) in question were only executed for security purpose, is not acceptable. Therefore, the petitioner, only in order to escape from the clutches of law, has filed the present Writ Petition.

18. It is further submitted by the learned counsel for the sixth respondent that the stamp duty value prevailing at the time of presentation of the document(s) shall have to be paid and not based on subsequent days, and therefore, the petitioner is not entitled to the relief sought for in this Writ Petition.

19. Heard both sides and perused the materials available on record.

20. Admittedly, the petitioner executed the sale deed(s) in question in the year 2003 and he presented the document in the year 2003 itself for registration. Since the land(s) in question was/were declared as "surplus land" and no GLR value was fixed and for want of fixation of GLR, the document(s) was/were kept pending. When once the document(s) is/are presented and when no GLR is fixed, it is for the petitioner to apply for GLR value, but for the reasons best known to the petitioner, he has not applied for GLR value.



Order dated 19.03.2024
in W.P.No.2153 of 2024

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21. On a perusal of the records, even though in 2003 the sale deed(s) in question were executed, the GLR value was fixed for the subject property(ies) on 14.10.2020 subject to certain conditions, which is evident from the proceedings dated 14.10.2020 in No.5878/DC(R)/REV/C2/GLR/2020/1956 issued by the Deputy Collector (Revenue), North, Puducherry of the Government of Puducherry and the said conditions are extracted hereunder:

"3. The GLR value for the land at R.S.No.230/2 & 230/4 of 35—Oulgaret Revenue Village for the year 2004-05 as per the Guide Line Register is Rs.175/- per Sq.Ft. And the same GLR value may be adopted for the said 2 pending documents vide P21 and P22 of 2003 subject to following conditions:-

a) This value is applicable only to this particular transaction of the petitioner only upon filing a declaration in Form-16 as required under Sec.19(2) of the said Act, without prejudice to any action taken by the Government under Sec.22 of the Pondicherry Land Reforms Act, 1973.

b) The value shall be reverted back to its original status of "under LR process" as earlier mentioned immediately after the said transaction is completed in respect of the pending documents P21 & P22.

c) The land is subject to further proceedings of the Authorised Officer under the Act.

d) The said portion of land is covered under Retention portion of the assessee Thiru.Ramasamy @ Swaminathan (Late) S/o Nataraja Mudaliar and his two legal heirs under the Land Reforms proceedings.



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Order dated 19.03.2024
in W.P.No.2153 of 2024

e) The GLR value is being granted subject to the condition that in case of non-availability of the Surplus lands of the assessee, to adjust the same or to make it good, the Authorised officer has the discretion under Section 22 of under the Pondicherry Land Reforms (Fixation of Ceiling on Lands) Act, 1973 to take over the Retention portion of the land and will be declared as Surplus portion in the final proceedings of the above assessee and thereafter will be vested with the Government."

22. Further, it is the case of the official respondents that the petitioner along with others, have filed O.S.No.37 of 2005 on the file of the III Additional District Judge, Puducherry, which fact has not been disclosed by the petitioner in the affidavit filed in support of the Writ Petition.

23. The petitioner himself admitted that he is the executant of the document(s) and presented the document(s) for registration and only for want of GLR value, the document(s) were not registered. Though the petitioner has stated that the transaction was not the actual sale deed(s) and and with no duress, the sale dee(s) have been executed only as security and he repaid the amount. In the meanwhile one of the executant Rameshwarlal died and the



Order dated 19.03.2024
in W.P.No.2153 of 2024

petitioner has approached the legal heirs of the deceased Rameshwarlal to cancel necessary document(s) and they have not responded to his request and subsequently, that too after 17 years, the sale deeds cannot be registered. When once the petitioner admitted the execution of the documents and he has also presented the document for registration, since for want of GLR value, the documents were not registered and they were kept pending.

24. Subsequently, the Notification dated 12.06.2008 came into effect and Form 10 as per Section 18(1) of the Puducherry Land Reforms (Fixation of Ceiling on Land) Act, 1973, vide No.5398/LR/08, dated 02.06.2008, was published in the Official Gazette, dated 12.06.2008. Even prior to that, in the year 2005, the petitioner, along with others, filed a civil suit in O.S.No.37 of 2005 before the III Additional District Court, Puducherry, seeking necessary relief, and pending suit, ad-interim injunction was sought for in I.A.No544 of 2020, which was dismissed for default on 14.12.2022.

25. Further, as discussed supra, GLR value was also fixed with certain conditions. Since the writ petitioner has filed the said civil suit, he has to only work out his remedy regarding the execution of the sale deed(s) and to analyse as to whether the sale deed(s) were executed only for security purpose or not,



Order dated 19.03.2024
in W.P.No.2153 of 2024

and it is for the Civil Court to decide the matter.

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26. Moreover, when once the execution of the document(s)/sale deed(s) is admitted and the same were kept pending only for want of fixation of GLR value, and further, thereafter, the said GLR value was also fixed with certain conditions, and that the documents were registered and when once the execution of the document(s) itself is admitted, it is for the petitioner to work out his remedy only in the manner known to law.

27. The petitioner has admitted that he has executed the document(s) and presented the same for registration and subsequently, he cannot deny the same. However, he cannot file the Writ Petition, as the issue involved in this Writ Petition will only have to be decided by the Civil Court in the said O.S.No.37 of 2005.

28. Further, it is also admitted that the document(s) in question is/are with the third respondent for all these years for registration and the petitioner has suppressed the material facts regarding the filing of the suit in O.S.No.37 of 2005 on the file of the III Additional District Court, Puducherry along with I.A.No.544 of 2020 and when once he has admitted the document, he is not

Page No.20/23



Order dated 19.03.2024
in W.P.No.2153 of 2024

entitled for any relief to cancel the document, as the execution is admitted. As the petitioner has also suppressed the material fact regarding the filing of the civil suit, it is clear that he has not come to the Court with clean hands. It is settled law that a person approaching the Court must come with clean hands without suppressing any material facts. Hence, he is not entitled to get the relief under Article 226 of the Constitution of India. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, W.M.P. is closed.

19.03.2024

Index: Yes/no

Speaking Order: Yes/no

Neutral case citation: Yes/no

CS

To

1. Union Territory of Puducherry,
Represented by
The District Collector-cum-The Inspector General of Registration,
Vazhudavur Road,
Pettaiyan Chathiram,
Puducherry-605 009.

2. The District Registrar,

Page No.21/23



Order dated 19.03.2024
in W.P.No.2153 of 2024

WEB COPY

Office of the District Registrar,
Registration Department,
Kamaraj Salai, Saram, Puducherry-605 013.

3. The Sub-Registrar,
Office of the Sub-Registrar Office,
Oulgaret, Puducherry-605 013.



WEB COPY



Order dated 19.03.2024
in W.P.No.2153 of 2024

P.VELMURUGAN, J

CS

W.P.No.2153 of 2024

19.03.2024

Page No.23/23