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Comp.A.Nos.232, 233 & 234 of 2024

Comp. A.Nos.232, 233 & 234 of 2024

in

Comp.A.No.339, 340 & 341 of 2023

in

C.P.No.73 of 2000

RESERVED ON 20.09.2024	PRONOUNCED ON 23.10.2024
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K.KUMARESH BABU.,J

COMMON ORDER

These present Applications have been filed seeking to set aside the order dated 18.04.2024, dismissing the Com.A.Nos.339, 340, 341 of 2023 and to restore the same on file.

2. The learned counsel appearing for the applicant would submit that when the matter was called on 18.04.2024, no one represented the applicant, since because the applicant had been suffering from fever and his counsel was also held up in another Court. He would further submit that however a mentioning was made before the Court and the Court had directed the counsel to bring the other side. But he was not able to bring the other side. According to him, at the request made by the counsel before the Court, this Court adjourned the matter to 22.02.2024. But



however, the matter was not listed and the original order dismissing the application was not recalled. Hence, he seeks this Court to take a liberal view and set aside the order made in these Company Applications.

3. However, on the contrary, the learned Senior counsel appearing on behalf of the third respondent would refute the submissions made by the learned counsel appearing for the applicant. He would submit that the applicant had initiated multiple litigation based upon the unregistered agreement. He would submit that originally an Original Petition had been filed on the file of Principal District and Sessions Judge, Theni, in which a Memorandum of Understanding (MoU) was entered into between the applicant and the third respondent, wherein it was agreed to convey an extent of 33.49 acres in favour of the applicant or his nominees. Pursuant to the MoU, the third respondent had executed a sale deed in favour of the applicant and one of his nominees Mr.Arjunan. Pursuant to which by memo dated 15.11.2012, the applicant had withdrawn the Original Petition and the same was dismissed as withdrawn. The applicant had again filed W.P.(MD).No.12623 of 2014, wherein he had sought for a Mandamus directing the Tashildar, Bodinayakanur, to forbear from



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transferring the patta to any other person in respect of properties comprised in various survey numbers. The relief that had been sought for was a similar relief that the applicant had made in W.P.(MD)No.4782 of 2011, which was also agreed to be withdrawn by the applicant pursuant to the MoU entered between the parties pending O.P.No.1 of 2010. Suppressing the earlier proceedings, the said Writ Petition in W.P.(MD)No.12623 of 2014 was filed and favourable orders came to be passed on behalf of the applicant. When the respondent became aware of the said order, a Review Application in R.A.(MD).No.35 of 2014, was filed in which the applicant remained absent. After noting the successive petition filed by the applicant, this Court recalled the order made in the aforesaid Writ Petition and also imposed a cost of Rs.25,000/- payable to the legal services authority attached to the Madurai Bench of Madras High Court. If such cost has not been paid by the applicant, the same shall be directed to be recovered by initiating the revenue recovery proceedings. The applicant had filed these set of three applications to set aside the order dated 18.04.2024 and to restore the Company Applications on file, by which is trying to resurrect the rights that he had given up pursuant to the MoU which has also been acted upon.



Therefore, he would seek this Court to dismiss the applications. He had also brought to the notice of this Court, an order passed by this Court in C.P.No.111 of 2019, dated 08.10.2021, wherein the rights of the third respondent had been crystallized and the Official Liquidator was directed to recall the letter issued to the Sub-Registrar, Bodi withdrawing the letter dated 02.01.2018 and indicate that he had no objection for transferring the property by the third respondent.

4. I have considered the submissions made by the learned counsel appearing on either side and perused the materials placed on record.

5. From a perusal of the order made in C.A.No.111 of 2019, dated 08.10.2021, the learned Single Judge of this Court had given a conclusive finding that the applicants therein are the owners of the various survey numbers mentioned in schedule to the said order and in fact, had directed the Official Liquidator to withdraw the letter dated 02.01.2018 and also to give a no objection for transfer of the said lands which had been purchased by the applicants therein from third parties under two



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sale deeds. The order in effect recognize the right and title of the applicants therein of whom the first applicant is the third respondent herein. Without seeking for any review of the said order, the present applications have all been taken out by the applicant.

6. Further from the order passed in W.P.(MD)No.12623 of 2014, the prayer therein was to forbear the Tahsildar from transferring the patta in respect of various survey numbers pending the Arbitration proceedings in Arb.O.P.No.1 of 2010. The survey numbers given in the said prayer in the Writ Petitions as extracted in the order and the survey numbers given in the schedule to the order made in C.A.No.111 of 2019, are one and the same. When that being so, the applicant cannot maintain these applications without seeking review of the order made in C.P.No.111 of 2019. Further, the conduct of the applicant had been deprecated by the learned Single Judge of this Court in W.P.(MD)No.12623 of 2014. This was not been disputed by the applicant. In such an event, I do not find any merits in the applications and accordingly, these applications are dismissed.

23.10.2024



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K.KUMARESH BABU, J.
Pbn

Pre-Delivery Order in
Comp. A.Nos.232, 233 & 234 of 2024
Comp.A.No.339 of 2023
in
C.P.No.73 of 2000

23.10.2024