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W.P. Nos.15518 & 15525 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P. Nos.15518 and 15525 of 2023

1.M.M.Seenu

.. 1st petitioner in W.P. No.15518
of 2023 and sole petitioner in
W.P. No.15525 of 2023

2.Asaithambi

... 2nd Petitioner in
W.P. No.15525 of 2023

Vs

1.The Principal Secretary to Government
Adidravidar & Tribal Welfare (LA.2) Dept.,
Secretariat, Chennai - 9

2.The Inspector General of Registration
Chennai - 28

3.The District Registrar
(Administration)
Namakkal

4.The Sub Registrar
Puduchathiram
Namakkal District

... Respondents in both WPs



W.P. Nos.15518 & 15525 of 2023

Prayer in W.P. No.15518 of 2023: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 4th respondent in respect of his Refusal Check Slip in RFL/Puduchathiram_Namakkal/26/2023 dated 5.5.2023 and quash the same and thereby direct the 4th respondent to register the sale deed dated 5.5.2023 in favour of the petitioners in respect of the properties comprised in 4 items in Survey No.92/3 - 1.36 acres, S. No.92/5A - 45 cents, S. No.92/5B - 1.40 acres, and S. No.92/4C - 55½ cents all the above properties situate at Anandakrishnaraya Samuthiram Village, Namakkal Taluk, Namakkal District and release the same forthwith to the petitioners.

Prayer in W.P. No.15525 of 2023: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 4th respondent in respect of his Refusal Check Slip in RFL/Puduchathiram_Namakkal/27/2023 dated 5.5.2023 and quash the same and thereby direct the 4th respondent to register the sale deed dated 5.5.2023 in favour of the petitioners in respect of the properties comprised in 6 items in Survey No.90/2B - 76½ acres, S. No.90/1J - 21 cents, S. No.90/1A - 20 cents, S. No.90/1E - 31 cents, S. No.90/4B - 20 cents and S. No.92/1A - 71 cents all the above properties situate at Anandakrishnaraya Samuthiram Village, Namakkal Taluk, Namakkal District and release the same forthwith to the petitioners.

For Petitioner : Mr.N.Suresh
in both WPs
For Respondents : Mr.Yogesh Kannadasan
in both WPs Spl. Govt. Pleader for R1 to R4



W.P. Nos.15518 & 15525 of 2023

COMMON ORDER

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Challenge has been made to the refusal check slips issued by the fourth respondent herein dated 05.05.2023. When the petitioner has presented the sale deeds, the same were refused to be registered on the ground that the property was sold to other than the depressed class earlier in Document No.5279 of 2010. To cancel the said sale deed, proceedings are pending before the District Registrar. Therefore, again based on the said document, further sale is not valid. Further, a No Objection Certificate has to be obtained from the concerned department. Challenging the said refusal slips, these writ petitions have been filed.

2. It is the contention of the learned counsel appearing for the petitioner that the subject property is originally owned by one Murugesan. He belongs to depressed community, namely Arunthadhiyar community. Besides, he has also purchased several properties from different persons, who are all belong to Scheduled Caste community. However, in the year 2010, the said Murugesan has sold his property to one Kumudha to an extent of 5.99 Acres under Document bearing No.5279/2019. The said purchaser realised the fact that the



W.P. Nos.15518 & 15525 of 2023

sale in favour of other community is not valid as per the Revenue Standing Orders, she again re-sold the property to the said Murugesan. Now the petitioner has purchased the property from the said Murugesan. The petitioner also belongs to the same community. Hence he challenges the refusal orders in these writ petitions.

3. In the counter filed by the fourth respondent, it is stated that, as the land is attached with AD condition, the same was sold to the other community person vide Document No.5279 of 2010. Therefore, as per the letter addressed in this regard by the Adhi Dravidar Welfare Department dated 21.03.2018, orders have been passed.

4. Learned counsel appearing for the petitioner would submit that the property is held by the depressed community people and Murugesan has purchased the property from the same community in the year 2009 and in the year 2010, he has executed a sale deed to other community person on 19.11.2010. After realising sometime that such sale is not valid, the said person, namely Kumudha has again re-transferred the property to Murugesan, Therefore, it is his contention that the property all along dealt with by person



belonging to the particular community not sold to other community people, the petitioner is also from the same community, when he presented the documents, the earlier sale made in favour of the other community person is put against him. Hence according to him, such order cannot be put against him. Whereas, the learned Special Government Pleader appearing for the respondents would state that since there was violation of assignment condition, as per RSO 12(3), such lands cannot be sold.

5. Heard the learned counsel appearing for both sides and perused the materials available on record in the form of typed set of papers.

6. The materials produced before this court indicate that the assignment was given long back, as submitted by the learned Special Government Pleader for the respondents. In fact, the assignment relates to 1937. Therefore the condition under RSO 12(3) will not apply here, since the first purchase made by Murugesan was only in the year 2009, after several years of the assignment. Therefore, the rule cannot be pressed into service. The only condition on which the refusal slip has been issued is to the effect that since the lands are AD condition lands, the same would not have been sold to the third parties.



W.P. Nos.15518 & 15525 of 2023

WEB COPY

7. No doubt, the very object of the assignment is to preserve the lands within the depressed community persons, however, the purchase by the same community people is not violation. The vendor of the petitioner purchased the property in the year 2009 vide various sale deeds and in 2010 he has dealt with the property by selling it to one Kumudha. Thereafter, once again the property has been re-transferred to him on 08.06.2022 by way of Document No.1789 of 2022. After that he has sold the property to the petitioner, who is also belonged to the same community. Therefore, merely once the property has been sold to the third party, which was once again restored to the same community person, it cannot be said that the property has been sold to the third party, other than the depressed community, therefore it cannot be dealt. In fact, the property has been retained only by the depressed community people. The purchase now made is also by the depressed community person. In such view of the matter, the refusal slips issued by the fourth respondent cannot be sustained in the eye of law.

8. Accordingly, both the writ petitions are allowed. The impugned refusal slips in RFL/Puduchathiram_Namakkal/26/2023 and



W.P. Nos.15518 & 15525 of 2023

RFL/Puduchathiram_Namakkal/27/2023 dated 5.5.2023 are quashed. The fourth respondent is directed to register the sale deeds dated 05.05.2023 presented by the petitioner, within a period of one week from the date of receipt of a copy of this order. No costs.

21.06.2024

Index : Yes / No

Neutral Citation : Yes / No

Asr

To

- 1.The Principal Secretary to Government
Adidravidar & Tribal Welfare (LA.2) Dept.,
Secretariat, Chennai - 9
- 2.The Inspector General of Registration
Chennai - 28
- 3.The District Registrar
(Administration), Namakkal
- 4.The Sub Registrar
Puduchathiram, Namakkal District
- 5.The Government Pleader
High Court, Madras

N.SATHISH KUMAR, J.

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WEB COPY



W.P. Nos.15518 & 15525 of 2023

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