



WEB COPY



WP.No.19215 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.19215 of 2024

Sowmiya Spinners Private Limited
Represented by its Managing Director
Mr.K.M.Chinnadurai

.. Petitioner

Versus

1. The Inspector General of Registration
Office of the Inspector General of Registration
No.88, Santhome High Road
Chennai – 600 018

2.The District Registrar
(The Assistant General of Registration)
Office of the District Registrar
Coimbatore North

3.The Sub Registrar
Office of the Sub-Registrar
Annur SRO, Coimbatore North District

4.West Coast Constructio Company
Represented by its Partner
H.No.10-3-3113/3/A, Castle Hills Colony
Road No.2. Mastbank/Asifnagar
Hyderabad, Telangana

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India

praying to issue a Writ of Certiorarified Mandamus, Calling for the records



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and quashing the order passed by the second respondent in Na.Ka.No.436/B1/2021 dated 18.06.2024 consequently directing the third respondent to register the sale deed executed by the fourth respondent dated 9.12.23 in favor of the petitioner on the file of third respondent on presentation of the same.

For Petitioner : Mr.Srinath Sridevan, Senior Counsel
M/s.Eswar Kumar and Rao
For Respondents : Mr.B.Vijay for R1 to R3
Additional Government Pleader

ORDER

By consent of both parties, this writ petition is taken up for final disposal.

2.Challenge has been made to the refusal slip issued by the second respondent dated 18.06.2024. The writ petitioner purchased the property from the fourth respondent, when the document was presented for registration, the same has been refused to be registered.

3. It is the case of the writ petitioner that the fourth respondent is in the exclusive possession and enjoyment of the subject property whose firm



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remained unregistered and registered only in the year 2022, whereas, the property is purchased by the unregistered firm in the year 1988. Thus, the impugned order is passed on the ground that though the property was originally purchased in the year 1986 in Karnataka, the company is registered in Telangana, Hyderabad only on 05.12.2022. Challenging the same, this writ petition is filed.

4. Mr.B.Vijay, learned Additional Government Pleader took notice and brought the written instructions, wherein, it is stated that the property though purchased in the year 1988, original document have not been properly placed. Though the firm has been constituted in the year 1986, no document have been produced to show that the date of incorporation of firm, whereas, in Form A, registration is shown as in the year 05.12.2022. Therefore, justified refusal.

5. The learned Senior Counsel appearing for the petitioner submitted that the registering authorities, in fact, gone into the very title itself. When the E-Permanent Account Number (e-PAN) Card, Income Tax Department, available in the typed-set of papers indicate that the date of incorporation as 08.08.1986, only the registration of the partnership firm is made on 05.12.2022. Therefore, merely, because the firm has been registered under the



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Indian Partnership Act in later part of the time, it cannot be said that no such firm existed prior to it. It is the specific case of the writ petitioner that the property is purchased from the firm which was unregistered at the relevant point of time, However, all accounts is also subject to Income Tax. E-Permanent Account Number (e-PAN) Card also clearly indicate that the date of incorporation of the firm. Such being the position, registrar cannot make a roving enquiry about the firm.

6. Heard both sides and perused the materials placed on record.

7. As rightly pointed out by the learned counsel for the petitioner Income Tax clearly shows the date of incorporation in the year 1986, firm was registered under the Indian Partnership Act in the year 2022, whereas, the property has been purchased before the registration and come into the stock of the registered firm and firm has continued to enjoy the property exercising right as a owner from the inception. Such being the position, it cannot be said that merely firm has been registered later, they cannot deal with property which was purchased before the registration.



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8.Hence, the impugned order stands quashed. The second respondent is directed to register the document dated 09.12.2023 within a period of one week from the date of receipt of a copy of this Order.

9. Accordingly, this writ petition stands allowed. No costs.

18.07.2024

dhk

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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N. SATHISH KUMAR, J.

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