



WP(MD)No.3661 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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N.Kumar

.. Petitioner

v.

1.The Branch Manager,
Tamil Nadu Industrial Investment Corporation Ltd.,
(A Government of Tamil Nadu Undertaking)
Madurai Branch,
No.1A/4A, Dr.Ambedkar Road,
Near Madurai Corporation Office,
MADITSSIA, Madurai 625 020.

2.S.Panneer Selvam

3.The Sub Registrar,
Thirupathur,
Karaikudi.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the first respondent to execute and register a Rectification Deed rectifying the wrong Survey No.



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259/5 into correct Survey No.259/25 in the sale deed dated 20.02.2009 vide Doc.No.348/2009 on the file of the Sub Registrar, Thiruppathur, Karaikudi, executed by the first respondent in favour of the second respondent within a stipulated time limit and consequently, directing the first respondent to pay compensation of Rs.2,00,000/- to the petitioner and his family members and Rs.50,000/- for legal notices sent to the first respondent and cost of this writ petition, in all Rs.2,50,000/-.

For Petitioner : Mr.V.Janakiramulu

For Respondents : Mr.R.Saravanan for R.1

Mr.G.V.Vairam Santhosh,
Additional Government Pleader for R.3

ORDER

The petitioner is the owner of the property bearing Door No. 526/2-72A comprised in S.No.259/5 to an extent of 3.5 cents in Thirukoshtiyur Village, Thiruppathur Taluk, Sivagangai District. According to the petitioner, this property originally belonged to his father (Late) Narayanan S/o.Karuppiyah Pillai, from whom, the property devolved



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on him. Patta was issued as gramanatham in the name of the petitioner's father on 25.10.1993 in Patta No.172 and all other revenue records stand in their name.

2.The case of the petitioner is that when he intended to sell the property in the year 2021, they came to know that a wrong entry has been made in respect of the property by the first respondent in favour of the second respondent. Therefore, the petitioner has submitted a representation to the first respondent enclosing the documents that the property belongs to his father and they are in enjoyment of the same.

3.In response to the petitioner's representation, the first respondent, through their Counsel, has sent a reply on 05.04.2021 as under:-

“My client further states that it is a typographical error committed in the sale deed, dated 20.02.2009, ie., S.No.259/5 is wrongly shown instead of 259/25, which had been correctly pointed out by your client. But as far as the extent of land and other aspect is concerned, it is correctly shown in the sale deed. So, it is false to state by your clients that the Corporation with others had created a false and fabricated



documents. My client being a Government State Financial Corporation does not indulge in such activities as stated by your client and no necessity arise for the Corporation to do so. Hence, my client is not liable to pay any cost as claimed by your clients.

My client states that on receipt of your notice, Corporation had taken necessary steps to rectify the defects committed at the time of registering the Sale deed. If the defect is identified at the earliest, the same would be rectified at the earliest. Only on receipt of your notice the defect came to light. The Corporation is taking earnest steps in rectifying the defects in the sale deed and the same will be let you know the progress done by Corporation then and there. So kindly bear the inconvenience. After rectifying the defects a copy of the same will be produced for your satisfaction.

Therefore, you advice your client that the Corporation is taking necessary steps to rectify the defects by registering the Rectification Deed for the sale deed dated 20.02.2009 bearing Registration No. 348/2009 and the process will be completed after getting necessary approval from the appropriate authority at the earliest. If your client thinks to initiate any action against the Corporation, my client is ready to face any action initiated by your client."



4. Even thereafter, the first respondent has not rectified their mistake by filing necessary rectification deed and therefore, the petitioner was constrained to file this writ petition for a mandamus directing the first respondent to execute the rectification deed by rectifying the wrong survey number in the Doc.No.348 of 2009 on the file of the Sub Registrar, Tiruppathur, Karaikudi and to pay a compensation of Rs.2,50,000/- to the petitioner and their family members.

5. Learned Counsel for the petitioner submitted that in view of the negligence of the first respondent, the petitioner has suffered a lot from the year 2021. The petitioner was not in a position to sell his property from the year 2021. Even though the first respondent admitted that they have committed a mistake, they have not come forward to rectify the mistake for the past three years.

6. The first respondent has filed a counter affidavit as follows:-

6.1. At the time of execution of the sale deed in favour of the second respondent on 20.02.2009 in Doc.No.348/2009, the survey number has been



inadvertently shown as S.No.259/5 instead of 259/25. The said defect was brought to the notice of the first respondent by the petitioner on 31.03.2021 by way of the legal notice, for which, the Corporation had sent a reply notice on 05.04.2021. Thereafter, the Corporation's panel valuer, namely, Thiru K.S.ramasubramanian, was sent for property identification, who, in turn, gave his report on 08.07.2021. Based on the report, the Branch Manager sent a note seeking clarification to the Head Office on 08.09.2021, for which, the Head Office replied on 14.09.2021 to get opinion from the Corporation's Counsel and to proceed further. Thereafter, the rectification deed was drafted and was forwarded to the Corporation's Panel Advocate for opinion.

6.2.The petitioner has sent a legal notice dated 23.11.2022, for which, a reply was made by the Corporation on 02.01.2023. The rectification deed was finalized on 24.04.2023 and it is ready for execution. In this regard, the Corporation has sent a letter to the third respondent / Sub Registrar. On 11.05.2023, the Corporation officials visited the third respondent, who, in turn, directed to produce all the original documents along with registration



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fee. It was communicated to the second respondent / auction purchaser, but, he did not turn up. Token was applied on 25.07.2023 for registration on 26.07.2023. However, the second respondent has not turned up along with the original documents and therefore, they could not register the rectification deed. Only thereafter, they came to know that the second respondent has misplaced the original documents and he is now taking steps to rectify the same by making complaint and paper publication that his original documents are missing.

6.3. On 08.02.2024, the Corporation had sent a letter to the second respondent / auction purchaser and on 22.02.2024, the second respondent responded that he obtained non-traceable certificate for the missing original documents and he is now ready for registration. Hence, they have applied for token on 23.02.2024 and the registration is scheduled on 26.02.2024 (today).

7. This Court considered the rival submissions made on either side and perused the available materials.



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8. Admittedly, a mistake was committed by the first respondent while executing the deed in favour of the second respondent in the year 2009 in Doc.No.348/2009. Instead of mentioning the survey number as 259/25, they have wrongly mentioned the survey number as 259/5, which is the petitioner's property. The petitioner has noted down this mistake based on the encumbrance available in the Sub-Registrar's Office, when he attempted to sell the property. The petitioner has also duly intimated the same to the first respondent Corporation. The first respondent Corporation has also accepted their mistake by way of their reply, however, it appears that they have not taken any *bona fide* steps to rectify their mistake, thereby, driven the petitioner to file this writ petition to get the relief. After the filing of this writ petition, they have taken some steps and submitted that the rectification deed would be registered by today.

9. In view of the above development, this writ petition stands disposed of, with a direction to the first respondent to complete the registration process within a period of one week from today.



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10. In view of the negligence on the part of the first respondent Corporation in not correcting the mistake at the earliest possible in the year 2021, when it was brought to their notice by the petitioner and driven the petitioner to file this writ petition, citing one reason or the other, this Court is imposing a cost of Rs.25,000/- [Rupees Twenty Five Thousand only] as against the first respondent. Though the petitioner claimed a sum of Rs. 2,50,000/- as compensation, this Court is restricting the compensation to Rs.25,000/-, the litigation expenses incurred by the petitioner. The first respondent shall pay this cost directly to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

Index : Yes / No
NCC : Yes / No
Internet : Yes
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B.PUGALENDHI, J.

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