



W.P.(MD)No.12994 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.12994 of 2018

D.Rajaprabakaran

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep.through its Secretary,
Housing and Urban Development Department,
St.George Fort, Chennai-9.

2.The Executive Officer-cum-Administrative Officer,
Tirunelveli Housing Board, Maharaja Nagar,
Tirunelveli-11.

3.The Sub Registrar,
Palayamkottai Sub-Registrar Office,
Kokirakulam, Tirunelveli-9.

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to direct the third respondent herein to receive the sale deed present by the petitioner for registration in respect of Plot No.175 in Vivekananda Nagar, Keelanatham Village, Palayamkottai Taluk, Palayankottai, Tirunelveli District and to register the same as per law and to complete the entire registration process within the time stipulated by this Court.



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For Petitioner : Mr.P.M.Vishnuvarthanan
For R1 & R3 : Mr.P.Subbaraj
Additional Government Pleader
For R2 : Mr.S.Velmurugan
Standing Counsel

ORDER

This writ petition has been filed seeking a direction to the third respondent herein to receive the sale deed presented by the petitioner for registration in respect of the property in Plot No.175 in Vivekananda Nagar, Keelanatham Village, Palayamkottai Taluk, Palayankottai, Tirunelveli District and to register the same.

2.Heard the learned counsel appearing on either side and perused the materials placed on record.

3.The case of the petitioner is the owner the subject property by virtue of the registered sale deed dated 06.11.2013. The petitioner also proposed to sell the said property to the third party. When the petitioner presented the sale deed for registration, the same was refused to be registered citing the objections raised by the second respondent.



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4.The learned counsel for the petitioner submitted that the property in Survey No.177/2 at Keelanantham Village, Palayankottai, Tirunelveli was proposed to be acquired by the first respondent under 'Neighborhood Scheme'. The said proceedings was challenged and an order of stay has been obtained. Thereafter, the subject property was sold to various other persons and the petitioner is also one of the purchasers. When the acquisition proceeding is itself stayed, there is no legal impediment for the third respondent to register the sale deed presented by the petitioner. Hence, he seeks a direction.

5.The second respondent filed counter affidavit stating that the Tamil Nadu Housing Board for the purpose of Neighborhood Scheme had acquired an extent of 16.88.0 Hectare vide G.O.Ms.No.337, Housing and Urban Development Department, dated 16.06.1992 and an award has also been passed in this regard on 23.08.1995. Out of the said extent, 15.3.62 hectares of lands were handed over to the Tamil Nadu Housing Board on 30.03.2003. The remaining 1.84.38 hectares have not been handed over by the acquisition body due to the construction of structures. The petitioner's predecessors purchased the land from the real estate brokers after the completion of acquisition proceedings. Hence, the petitioner being the subsequent purchaser has no legal right to make any alienation over the subject property.



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6.He further submitted that in a batch of writ petitions in W.P.Nos.10822 to 10834 of 2008 filed by the land owners, this Court had directed the Sub Registrar to register the sale deeds observing that merely because the sale deeds have been registered and released, the same does not mean that the petitioners have title over the said properties and that apart the release of such sale deeds would not in any manner affect or impeach the title of the Tamil Nadu Housing Board or its allottees. He further submitted that the challenge made to the award dated 23.08.1995 is also pending before this Court.

7.Admittedly, the petitioner is the subsequent purchaser. He purchased the subject property based on the sale deed released by the order of the Court that was passed with a rider that the subsequent purchase will not affect the right of the Housing Board. Therefore, the petitioner being a subsequent purchaser will not have a better title. It is to be noted that in the acquisition proceedings itself, an award has been passed and the challenge to the same is pending before this Court. However, the award passed in the acquisition proceedings is still in force, as no order is passed in the said petition. At this stage, the petitioner cannot seek to register the sale deed presented by him to sell the subject property.



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8. In view of the above, I do not find any merits in this writ petition.

Accordingly, this writ petition is dismissed. In the event, if the award proceedings is decided in favour of the petitioner, his title will be declared. Till such time, no document shall be registered with regard to the subject property. There shall be no order as to costs.

16.08.2024

NCC : Yes/No
Index : Yes/No
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To

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N.SATHISH KUMAR, J.

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