



W.P.(MD)No.22241 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.11.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)No.22241 of 2024

M/s.Tirunveli Ottanatham Project Pvt. Ltd.,
Rep. by its Authorized Signatory,
Nanthakumar.

... Petitioner

/Vs./

1.The Sub Registrar,
Sub Registrar Office,
Kadambur,
Kayathar,
Thoothukudi District.

2.K.Shanmugam

... Respondents

(R2 is impleaded vide order of this Court dated 27.09.2024 in WMP(MD)No.19510 of 2024.)

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to register the pending document of deed of rectification in P/Kadambur/20/2024 and release the same to the petitioner within the time stipulated by this Court.



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For Petitioner : Mr.P.R.Prithiviraj
For Respondents : Mr.S.P.Maharajan (R1)
Special Government Pleader
Mr.Niranjan S.Kumar (R2)

ORDER

This writ petition has been filed for a direction to the first respondent to register the rectification deed, which was presented for registration by the petitioner in favour of third party, which is kept pending as pending Document No.20/24 and release the same to the petitioner.

2. The petitioner had purchased the landed property measuring to an extent of 52.55 acres in various survey numbers situated at Onamankulam, Kayathar, Thoothukudi District. In order to install the solar power project, the petitioner had entered into a lease agreement with Tirunveli Solar Project Private Limited by the lease agreement dated 30.05.2019 for implementation of 100 MW AC / 106 MW DC solar



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power project at Thennampatti, Onamakulam, Sankaraperi, Kuppanapuram, Kudiraikulam Villages in Ottapidaram Taluk, Tuticorin District, Tamil Nadu, for a period of 29 years. The lease deed shall be valid and enforceable for a period of 29 years with effect from 30.09.2019 and 30.05.2048 and it shall be subject to extension at the request of the lessee. The rental amount was also fixed for each year till 2048. While being so, both the lessor and lessee agreed to enhance the rent for future years and executed a rectification deed dated 04.09.2024 and presented for registration before the first respondent. However, the second respondent raised some objections to register the rectification deed between the petitioner and third party on the ground that the petitioner's vendor had no title over the property to the extent of 7.74 acres comprised in various S.Nos. 351/1A, 351/1C, 351/1D, 390/1, 390/2, 390/4, 390/5 & 393/1A situated at Onamankulam, Kayathar, Thoothukudi District and even then, the petitioner's vendor sold out the property in favour of the petitioner.

3. The learned counsel appearing for the petitioner would submit that even before purchase of the subject property, the second respondent



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instituted a suit in O.S.No.114 of 2017 on the file of the District Munsif Court, Kovilpatti, for declaring that the petitioner's vendors' sale deeds of the years 1997, 2011 and 2012 are void. The second respondent also claimed to be the owner of the subject property. Pending suit, the petitioner's vendor had sold out the subject property in the suit in OS No. 114 of 2017 in favour of the petitioner on 26.11.2018. Subsequently, the suit was decreed in favour of the second respondent by judgment and decree dated 22.04.2021. While pending suit, the petitioner's vendor namely, the fourth defendant in the suit filed by the second respondent sold out the subject property and also failed to bring to the knowledge of the trial Court and therefore, the petitioner was not impleaded as a party in the said suit. After passing of the judgment and decree, the second respondent herein filed an execution petition to execute the decree and it is pending. After purchase of the subject property and other properties, the petitioner had leased out the subject property in favour of Tirunveli Solar Project Private Limited by the lease deed dated 30.05.2019 for a period of 29 years, which is registered vide Document No.780/19. Thereafter, lessor / petitioner filed a suit in O.S.No.119 of 2022 as against the second respondent for bare injunction in respect of the subject



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property and it is pending on the file of the principal Munsif Court, Kovilpatti.

4. The learned counsel appearing for the second respondent further submitted that the petitioner did not even whisper about the suit filed by the second respondent as well as the decree obtained by the second respondent in the present writ petition. He simply filed a suit for bare injunction without even mentioning the decree obtained by the second respondent in O.S.No.114 of 2017 on the file of the District Munsif Court, Kovilpatti. Now, he presented the rectification deed in respect of the very same property. Therefore, further creation of third party right would cause serious prejudice to the second respondent to recover the property. Therefore, he raised objections for registration of the rectification deed, which is pending on the file of the first respondent.

5. The learned Special Government Pleader appearing for the first respondent would submit that only because of the objections raised by the second respondent, now the rectification deed is pending as pending document.



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6. The second respondent obtained decree in his favour in O.S.No. 114 of 2017 on the file of the District Munsif Court, Kovilpatti. No appeal has been preferred against the said suit sofar, by the petitioner as well as his vendor. Therefore, it is an impediment for registering the rectification deed, which was presented for registration.

7. It is seen that admittedly, the extent which was purchased by the petitioner is 52.55 acres in various survey numbers including the subject property, which is under challenge by the second respondent. The lease period is 29 years ie., upto 30.05.1948. On perusal of the lease deed, the rental amount was mentioned for all 29 years. Now, the petitioner and the lessee agreed to enhance the rental amount for future years and accordingly, they had entered into the rectification deed and presented for registration.

8. Though the second respondent obtained a decree declaring the sale deeds, which were standing in the name of the petitioner's vendor are null and void, *lis pendence* purchase of the property by the petitioner is



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void on the strength of the sale deed in favour of the petitioner and he entered into lease agreement with the third party, namely, Tirunveli Solar Project Private Limited for the period of 29 years and it is valid upto 30.05.1948. Therefore, the second respondent ought to have taken steps to recover the subject property from the petitioner in the manner known to law. Therefore, the second respondent cannot have any objection to register the rectification deed in the existing lease deed dated 30.05.2019 for the period upto 30.05.1948.

9. On perusal of the rectification deed dated 04.09.2024, it reveals that it was entered between the petitioner and the lessee only for enhancement of rent, which was already agreed between the petitioner and the lessee as per the original lease deed dated 30.05.2019. Therefore, the objections raised by the second respondent cannot be countenanced and there is no absolutely no impediment for the first respondent to register the rectification deed, which was presented for registration, when the original lease deed dated 30.05.2019 is very much in force. That apart, the petitioner had purchased a vast extent of the property to an extent of 52.55 cents in various survey numbers. Insofar as the property,



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which is disputed by the second respondent is only to an extent of 7.74 acres.

10. In view of the above, the first respondent is directed to register the rectification deed and release it in favour of the petitioner forthwith and this writ petition is allowed accordingly. It is made clear that any of the observations made by this Court may not influence the civil Court. No costs.

07.11.2024

Index : Yes / No
NCC : Yes / No
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TO:-

1. The Sub Registrar,
Sub Registrar Office,
Kadambur,
Kayathar,
Thoothukudi District.



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G.K.ILANTHIRAIYAN, J.

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Order made in
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Dated:
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