
(2013) 09 MAD CK 0359

In the Madras High Court

Case No : Writ Petition No. 22851 of 2005

M/s. Dev's Electronic Private Ltd.

APPELLANT

Vs

The Joint Sub Registrar No. I

RESPONDENT

Date of Decision : 17-09-2013

Acts Referred:

Citation : (2013) 09 MAD CK 0359

Hon'ble Judges : K. Ravichandrababu, J

Bench : Single Bench

Advocate : S. Subbiah, for the Appellant; R. Rajeswaran, Special Government Pleader (W), for the Respondent

Final Decision : Allowed

Judgement

K. Ravichandrababu, J.—The prayer in W.P. No. 22851/05 is seeking for a direction to the respondent to register and release the sale deed dated 29.03.2005 executed by the Governor of Tamil Nadu, rep. by the Joint Director of Industries and Commerce (Electrical and Electronics) in favour of the petitioner pertaining to the land together with the factory shed II-1 in Dr. Vikram Sarabai Intronic Estate, Thiruvannamiyur, Chennai 600 041. The prayer in W.P. No. 22852/05 is seeking for a direction to the respondent to register and release the sale deed dated 06.06.2005 executed by the Governor of Tamil Nadu, rep. by the Joint Director of Industries and Commerce (Electrical and Electronics) in favour of the petitioner pertaining to the land together with the factory shed II-5 in Dr. Vikram Sarabai Intronic Estate, Thiruvannamiyur, Chennai 600 041.

2. The case of the petitioner in W.P. 22851/05 is as follows:

The petitioner was the allottee of the land and the factory shed II-1 in Dr. Vikram Sarabai Intronic Estate, Thiruvannamiyur, Chennai 600 041 to an extent of 8250 sq. ft. under the hire purchaser system for a total cost of Rs. 1,02,663.00 under the order of allotment dated 15.06.1971. The petitioner had made the entire payment as per the schedule. When the Department of Industries and Commerce

demanded exorbitant amount by refixing the cost of the land, the petitioner filed a writ petition in W.P. No. 17253 of 1996 challenging the said demand and to direct the authorities to execute the sale deed. By a common order dated 14.03.2001, a learned single Judge of this Court allowed the writ petition and quashed the demand and directed the Government to execute a sale deed in favour of the petitioner. The Government filed appeals in writ appeal in W.A. Nos. 1042 and 1043 of 2001 and by an order dated 18.09.2003, the Honourable Division Bench of this Court dismissed the appeals preferred by the Government. Pending disposal of the above writ appeal, the petitioner filed another writ petition in W.P. No. 10821 of 2003, seeking for issuance of a direction to execute a sale deed in terms of the draft sale deed for a consideration of Rs. 1,02,663/-. While disposing of the above writ appeals, the Hon'ble Division Bench of this Court observed that in the light of the judgment delivered in the above writ appeals, the state will take such measures as are necessary with regard to the execution of the sale deed. Thereafter, the petitioner was able to get the sale deed executed on 29.03.2005 thereby the Government of Tamilnadu conveyed the land in favour of the petitioner. The said sale deed was presented by the petitioner before the Registering Authority for registration. Though the document was received by the respondent on 22.06.2005, the same was only kept as a pending registration document in No. 00166 of 2005 only on the reason that the petitioner should pay the entire stamp duty on the basis of the guideline value, as on the date of execution of the sale deed. The petitioner's repeated request for release of the document was not considered and therefore, the present writ petition is filed before this Court.

3. The case of the petitioner in W.P. 22852/05 is as follows:

The petitioner was the allottee of the land and the factory shed II-5 respectively in Dr. Vikram Sarabai Intronic Estate, Thiruvannamiyur, Chennai 600 041 to an extent of 7725 sq. ft. under the hire purchaser system for a total cost of Rs. 1,02,663.00 under the order of allotment dated 17.06.1976. The petitioner had made the entire payment as per the schedule. When the Department of Industries and Commerce demanded exorbitant amount by refixing the cost of the land, the petitioner filed a writ petition in W.P. No. 2856 of 1997 challenging the said demand and to direct the authorities to execute the sale deed. By a common order dated 14.03.2001, a learned single Judge of this Court allowed the writ petition and quashed the demand and directed the Government to execute a registered sale deed in favour of the petitioner. The Government filed an appeal in writ appeal in W.A. No. 1042 and 1043 of 2001 and by an order dated 18.09.2003, the Honourable Division Bench of this Court dismissed the appeals preferred by the Government. Thereafter, the petitioner was able to get the sale deed executed on 06.06.2005 thereby the Government of Tamilnadu conveyed the land in favour of the petitioner. The said sale deed was presented by the petitioner before the Registering Authority for registration. Though the document was received by the respondent on 22.06.2005, the same was only kept as a pending registration document in No. 00165/05 only on the reason that

the petitioner should pay the entire stamp duty on the basis of the guideline value as on the date of execution of the sale deed. The petitioner's repeated request for the release of the document was not considered and therefore the present writ petition is filed before this Court.

4. Though these writ petitions were admitted on 20.07.2005, no counter affidavit is filed by the respondent so far.

5. Though the learned Special Government Pleader appearing for the respondent, during the last hearing sought time to get instructions from the respondent and the matter was adjourned for that purpose, it appears that the respondent has not instructed the learned Special Government Pleader so far to assist the Court. Therefore, this Court has got no other option but to proceed to decide the matter based on the facts available before this Court.

6. Learned counsel Mr. S. Subbiah appearing for the petitioners submits that the issue involved in this case is directly covered by the decision of the learned Single Judge of this Court reported in M/s. Sridhara Electrotek Vs. The Joint Director, Director of Industries and Commerce (Electrical and Electronics), Madras-5, District Revenue Officer (Stamps), Office of the District Collector, Singaravelar Maligai, 32 Rajaji Salai, Chennai-1. and The Sub-Registrar, Neelangarai, Chennai . In the said decision, this Court has taken a view that when the Government happens to be the vendor, there is no justification on the part of the Registration Officer to insist for the stamp duty to be paid on any other amount than the sale consideration actually recited in the sale deed. The relevant paragraph No. 4 is extracted hereunder:

4. It is needless to mention that when the vendor happens to be either the Government or the Government undertaking like Chennai Metropolitan Development Authority, etc., there is no justification on the part of the Registration Officer to insist for the stamp duty to be paid on any other amount than the said consideration actually recited in the sale deed. The purchasers cannot be alleged to have paid more than what is recited in the document.

7. The petitioners have stated in the affidavit that the documents were not registered and kept pending only on the reason that the petitioners should pay the stamp duty on the basis of the guideline value as on the date of execution. In the absence of any counter affidavit disclosing any other reasons for not registering the documents and in the absence of any other reasons orally submitted by the learned Special Government Pleader to say that there are some other reasons for not registering the documents, this Court has to take that the reason stated in the affidavit is the reason for not registering the documents. Therefore, if that is the only reason, I am of the view that the issue involved in these two writ petitions are directly covered by the decision of the learned Single Judge of this Court reported in 2005 (2) LW 350, (cited supra).

K. Ravichandrababu, J.

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8. Considering the said decision and considering the averments filed in support of the two writ petitions, I am of the view that the petitioners are entitled to succeed in these writ petitions. Accordingly, the writ petitions are allowed. At this juncture, the learned counsel for the petitioners submitted that pending disposal of the writ petitions, by virtue of the interim orders, the petitioners got release of those two documents which were kept as pending documents. Therefore, there is no necessary for further direction against the respondent to release those documents. As already the said documents were released, the respondent is directed to make necessary entries in the records in the light of this order. No costs.