

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2015

CORAM :

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

Writ Petition No.22476 of 2014  
and  
M.P.No.1 of 2014

Tmt. C.Tamilselvi

... Petitioner

Vs.

1. The District Registrar of Registration,  
Ariyalur District, Ariyalur

2. The Sub-Registrar of Registration,  
Jayamkondam, Ariyalur District

3. Thiru E.Sivamuthu

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the first respondent from proceeding with Appeal No.2 of 2014 filed against the orders passed by the second respondent, dated 16.05.2014 refusing to register the sale deed, dated 27.12.2013.

For Petitioner : Mr. S.Kamadevan

For Respondents : Mr. S.Pattabiraman,  
Govt. Advocate, for R-1 and R-2  
Mr. G.Pugalendhi, for R-3

सत्यमेव जयते  
O R D E R

Heard the learned counsel for both sides.

2. It appears that the Sub-Registrar, Jayamkondam / second respondent herein has refused to register the document in question, by giving reasons for such refusal, taking into consideration the stand taken by the petitioner that she has not signed in the document. It is the case of the denial of execution. Therefore, the third respondent has approached the Registrar. Treating the same as an appeal, summons were issued to the petitioner. Alleging that the said proceedings is one without jurisdiction, the petitioner has come

forward to file this writ petition to forbear the first respondent from proceeding further.

3. The learned counsel for the petitioner submitted that Section 72 of The Registration Act, 1908 (hereinafter will be referred to as "the Act") provides an appeal to the order of the Sub-Registrar, who refuse registration on ground, other than the denial of execution and therefore, the said Section cannot be applied to the facts of this case; since the case on hand deals with the denial of execution, there is no power that lies with the first respondent to entertain the appeal.

4. Though the submission made by the learned counsel for the petitioner appears to be correct, the power of the Registrar to go into the validity of the reasons assigned by the Sub-Registrar for refusal of registration is very much available under Section 73 of the Act. What is required under Section 73 of the Act is only an Application. Thus, the petition made by the third respondent can be treated as an Application.

5. Further, under Section 74 of the Act, a procedure is contemplated for the Registrar to deal with the Application. Section 76 of the Act speaks about an order of refusal by the Registrar. As against the said order, only a suit would lie, in case of refusal.

6. What the third respondent seeks is an adjudication under Section 73 of the Act. Therefore, even assuming that there is a procedural violation, the same cannot be taken as a ground to hold that the first respondent does not have any power or authority to deal with the case, which falls under Section 71 of the Act.

7. Further more, it is also to be noted that technicalities cannot stand in the way of the authorities exercising his/her power, when he/she has got jurisdiction to do so. An adjudication on merit is important, rather than the form.

8. In the result, this writ petition stands disposed of, by directing the first respondent to treat the petition filed by the third respondent as an Application and thereafter, proceed further, in accordance with law. No costs. Consequently, the connected MP is closed.

Sd/-  
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

srk

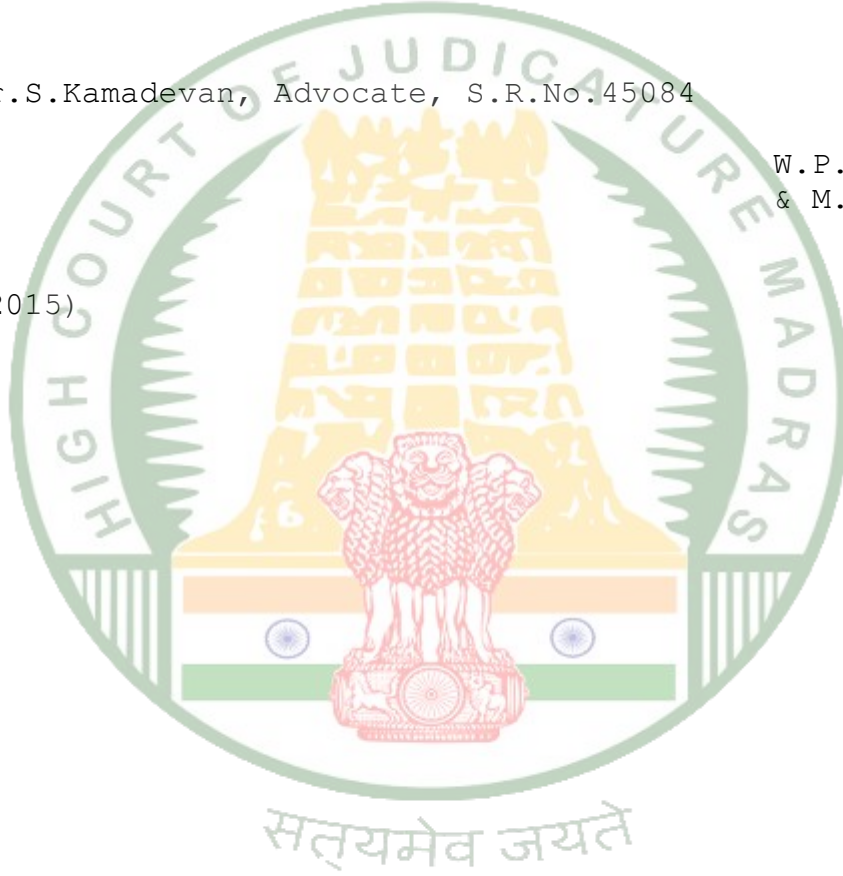
To

1. The District Registrar of Registration,  
Ariyalur District,  
Ariyalur
2. The Sub-Registrar of Registration,  
Jayamkondam,  
Ariyalur District

+1cc to Mr.S.Kamadevan, Advocate, S.R.No.45084

W.P.No.22476 of 2014  
& M.P.No.1 of 2014

VD(CO)  
CA(22/09/2015)



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