

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.10.2015

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THE HON'BLE MR. JUSTICE M.M.SUNDRESH

W.P.No.26526 of 2014
and M.P.Nos.1 and 2 of 2014

1. Sagaya Mary
2. Revathi .. Petitioners

Vs.

1. The District Collector,
Government of Puducherry,
Karaikal - 609 602,
2. The District Registrar,
Registration Department,
Government of Puducherry,
Puducherry - 605 001,
3. The Sub-Registrar,
Office of the Su8b-Registrar,
Karaikal - 609 602. .. Respondents

Prayer: Writ Petition is filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the Memorandum bearing No.7143/CK/A3/2014 dated 7.8.2014 on the file of the 1st respondent and the Order dated 11.08.2014 on the file of the 3rd respondent and quash the same and consequently direct the 3rd respondent to accept and register the Sale Deeds and other documents executed and presented by the petitioners in respect of the land bearing R.S.Nos.150/1A and 150/1C, situated in Kottucherry village, Karaikal and measuring in total 0.70.80 HAC before him.

For Petitioners : Mr.T.P.Manoharan
For Respondents : Mr.A.Tamilvanan, Govt. Advocaes
(Pondicherry)

ORDER

Learned counsel appearing on either side submitted that the issue raised in this writ petition is covered by a decision of this Court in **Pandurangan Vs. The Sub Registrar, Reddiarpalayam, ((2007(1) CTC 641)**, wherein, the communication issued by the District Collector, Pondicherry to the registering authority was set aside in the following manner:

'26. In the decision in **Kailash v. Sub-Registrar of Assurances, Indore (AIR 1985 MP 12)** relied upon by the learned senior counsel appearing for the petitioner, the Division Bench of the Madhya Pradesh High Court held that the Registering Officer is not bound by any instructions issued by the Collector to the Sub-Registrar. In paragraph-16 of the said judgment, it was held as follows :-

"16. The appellate order in the case of *Yeshwantsingh* (M.P. No. 59/84) makes a reference to certain executive instructions issued by the Collector, Indore in pursuance to which the Sub-Registrar had refused registration of the document. Firstly, no such instructions have been placed on record, even assuming them to be so, the Registration Act does not confer any such power on the Collector, of any district to issue any such instructions prohibiting the registration of documents. The respondent No. 1 while purporting to act in the discharge of his statutory duties has to exclude such instructions, which have no foundation in law. We are, therefore, constrained to hold that the respondent No. 1, while refusing to register the document on the basis of some instructions from the Additional Collector, was certainly not acting in accordance with law. There could be no executive instructions contrary to law nor can such instructions have any overriding effect on the statutory provisions of law. It is painful to note that in fact of this Court's direction the appellate order dated 25-2-1983 (in M.P. No. 59/84) should seek justification for refusal to register the document on the basis of such direction from the Additional Collector."

27. It is well settled that Statutory Rules cannot override express provisions of the Statute and Executive Instructions cannot override either of the two.

28. Under such circumstances, the writ petition is allowed and the impugned communication of the third respondent is set aside and the first respondent is directed to examine any document, if and when presented by the petitioner for registration, within the frame work of the provisions of the Registration Act, 1908 and

the Rules issued thereunder, taking note of the above observations. In the circumstances, there shall be no order as to costs. Consequently, connected WPMP is closed.''

2. Therefore, the impugned communication, by which the 1st respondent has asked respondents 2 and 3 not to register documents presented by the petitioners is hereby set aside. However, it is well open to respondents No.2 and 3 to exercise the power under Rule 54 of the Pondicherry Registration Rules, 1969 by conducting an enquiry in this regard. Though the learned counsel appearing for the petitioners submitted that 13 similar documents have already been registered at the instance of the petitioners, it is a matter, which can be looked into by the respondents.

3. In the result, the orders impugned are hereby set aside and consequently respondents No.2 and 3 are directed to conduct enquiry under Rule 54 of the Pondicherry Registration Rules and pass appropriate orders and take appropriate steps within a period of six weeks from the date of receipt of copy of this order. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CO)

dt:13/10/2015

True Copy

Sub-Assistant Registrar

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To

1. The District Collector,
Government of Puducherry,
Karaikal - 609 602,
2. The District Registrar,
Registration Department,
Government of Puducherry,
Puducherry - 605 001,
3. The Sub-Registrar,
Office of the Sub-Registrar,
Karaikal - 609 602.

+1 cc to Government Pleader cum Public Prosecutor
(Pondy) sr.54526

+1 cc to Mr.T.P.Manoharan, Advocate, sr.54361(28/10/2015)

W.P.No.26526 of 2014

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