

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2015

CORAM

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

W.P.No.27356 of 2015
&
M.P.Nos.1 and 2 of 2015

J.Ilin Victoria @ Victoria ... Petitioner

-Vs-

1.The Sub Registrar,
Kothagiri, The Nilgiris District.

2.Lizzie Raj ... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings No. Nil dated 24.03.2015 and quash the same consequently directing the 1st respondent to register the sale agreement dated 16.12.2013 which is pending document in P18/2014 with the 1st respondent office by taking note of the judgement made in S.A.No.156 of 2013, dated 05.02.2015.

For Petitioner : Mr.C.Prakasam

For Respondent -1 : Mr. P. Sanjay Gandhi,
Addl. Govt. Pleader

For Respondent-2 : No Appearance

ORDER

Despite the notice being served and the name having been printed in the cause list for the second respondent, none has chosen to appear on behalf of them.

2. Learned counsel for the petitioner submitted that the second respondent at first filed a suit in O.S.No.50 of 2006 on the file of the District Munsif Court, Kothagiri against the

petitioner with respect to the very same suit property. The suit filed by the second respondent was dismissed as confirmed by the second appeal. Though the second appeal was dismissed as early as on 05.02.2015 and thereafter by the Apex Court, for the reasons best known, the second respondent has filed a subsequent suit in O.S.No.23 of 2012 in which the petitioner has filed an interlocutory application in I.A.No.257 of 2014 seeking to reject the plaint. Therefore, the order impugned cannot be sustained in the eye of law.

3. A perusal of the impugned order would show that the petitioner presented the documents seeking to register the agreement for sale with respect to the sale deed dated 16.12.2013, which has been kept pending in P18/2014. However, taking into consideration the pendency of the suit, the petitioner was asked to inform about its position. Challenging the said proceedings, the present writ petition has been filed.

4. A mere pendency of the suit per se cannot be a bar. Similarly, registration for sale will not give any title to the party concerned. It is also to be seen that the second respondent has lost her case in the earlier round of litigation i.e., in O.S.No.50 of 2006 and thereafter, in S.A.No.156 of 2013 before this Court which has also been confirmed by the Apex Court. Even in the order impugned, it has only been stated that the registration can be done subject to final outcome of the suit.

5. In view of the above, the order impugned is hereby set aside and the first respondent is directed to register and release the document presented by the petitioner which is pending in P18/2014 subject to the compliance of other conditions, within a period of four weeks, from the date of receipt of a copy of this order. However, it is made clear that the registration is subject to the final decision of the jurisdictional Civil Court.

The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

smi

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Sub Registrar,
Kothagiri, The Nilgiris District.

+ 2 ccs to Mr.C.Prakasam, Advocate Sr 65828.

+ 1 cc to The Govt.Pleader, Sr 65712.

W.P.No.27356 of 2015

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