

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 15.06.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.20190 of 2016

&

WMP.No.17367 of 2016

M.M.Raja @ Murugesan

... Petitioner

Versus

The Joint Sub Registrar II
Dharmapuri, Dharmapuri District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus calling for the records of the proceedings of the respondent made in dated 08.06.2016 and quash the same and consequently direct the respondent to receive and register the settlement deed dated 08.06.2016 executed and presented by the petitioner and others under the provisions of the Registration Act.

For Petitioner : Mr.S.Thirumavalavan

For Respondent : Mr.R.Govindasamy,
Special Government Pleader

ORDER

By consent, the writ petition is taken up for final disposal.

2. The petitioner would state that he approached the respondent for registration of the Settlement Deed dated 08.06.2016 executed by him in favour of his brother M.M.Gopi and vide the impugned Check Slip dated 08.06.2016, it was returned on the ground that in the Encumbrance, there is an entry relating to the registered Sale Agreement bearing Document No.4472/2010 between the Power of Attorney Agent, viz., Thiru Balu @ Chinnasamy and Jayalakshmi and it has been stated that the said entry is to be cancelled and challenging the legality of the said Check Slip, the present writ petition has been filed by the petitioner herein.

3. The learned counsel for the petitioner would submit that the sale agreement came to be executed as early as in the

year 2010 and admittedly, the agreement holder, viz., Jayalakshmi, did not take any steps to enforce the agreement even by filing a suit for specific performance and therefore, it cannot be construed as an encumbrance and prays for appropriate orders to direct the respondent to register the Sale Deed.

4. Per contra, Mr.R.Govindasamy, learned Special Government Pleader, who accepts notice on behalf of the respondent would submit that in the light of the entry in the Encumbrance relating to the property, the respondent has rightly returned the same with an advise / direction to the petitioner to get the entry cancelled.

5. This Court considered the rival submissions and also perused the materials placed before it.

6. In the considered opinion of this Court, an entry in the Encumbrance relating to the registration of an agreement of sale, prima facie, cannot be construed as an encumbrance. Hence, on the sole ground, the impugned Check Slip warrants interference.

7. In the result, the writ petition is partly allowed and the impugned check slip dated 08.06.2016 is set aside and the matter is once again remanded to the 2nd respondent, who shall put the agreement holder, viz., Tmt.Jayalakshmi, wife of C.Balu @ Chinnasamy, residing at Door No.44-F2, Nedumaran Nagar, Dharmapuri, on notice and take further steps in accordance with law and conclude the same within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

AP

To

The Joint Sub Registrar II
Dharmapuri, Dharmapuri District.

+1cc to Mr.S.Thirumavalavan, Advocate, S.R.No.32452

W.P.No.20190 of 2016

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