

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.07.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.26426 of 2016

1.Muthusamy
2.Deivathai
3.Santhamani

... Petitioners

Vs.

The Sub Registrar,
Registration Department,
Sulur,
Coimbatore District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings in "Thanikkai Cheetu-1" dated 01.07.2016 on the file of the respondent herein, quash the same and consequently direct the respondent herein to receive and registre the release Deed dated 01.07.2016 executed by the petitioners 2 and 3 in favour of the first petitioner within a stipulated period.

For Petitioners : Mr.K.Govi Ganesan

For Respondents : Mr.R.A.S.Senthilvel,
Additional Government Pleader.

O R D E R

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner presented the release deed dated 01.07.2016 in respect of the 1/3rd share of the house property in S.F.No.83.5 admeasuring to an extent of 0.55 cents situate at Samalapuram Village, Palladam Taluk, Tiruppur District for registration and it was returned on the ground of subsisting the attachment in O.S.No.693/2013 on the file of the Sub Court, Tiruppur and challenging the legality of the same, came forward to file this writ petition.

3. The learned counsel appearing for the petitioner would submit that the matter in issue is squarely covered by the

judgment of this Court reported in 2016-3-L.W. 513 [S.Praveen Bohra Vs. Joint-Sub-Registrar, Office of Registration of Coimbatore] and would submit that the order of attachment cannot be a bar to register the document and prays for appropriate orders.

4. Heard the submissions of Mr.R.A.S.Senthilvel, learned Additional Government Pleader, who accepts notice on behalf of the respondent.

5. It is relevant to extract paragraph Nos.8 and 9 of the above cited judgment:

"8.Thus, it is crystal clear that it is well settled principle of law that the order of attachment cannot be a bar to register the document. Therefore, I am of the view that there is no need for this petitioner to file an appeal. I am of the opinion that the sale of the subject property, pending the order of attachment is void only as against the claims enforceable under the order of said attachment and not in respect of other claims. Therefore, I am of the opinion that the sale of the property attached cannot be construed as illegal sale.

9.In the light of the decisions cited supra, the Writ Petition is allowed and the respondent viz., Joint-I, Sub-Registrar, Coimbatore is directed to register the document and release the registered document in favour of the petitioner, within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. No costs."

6. In the light of the facts and circumstances coupled with the above cited decision, this Writ petition is partly allowed and the impugned proceeding of the respondent dated 01.07.2016 is set aside and once again the matter is remanded to the respondent for fresh adjudication. The petitioner is permitted to re-present the document before the respondent within a period of one week from the date of receipt of a copy of this order and on receipt of the same, the respondent shall entertain it, if

the papers are otherwise in order and pass orders in the light of the observations made in the writ petition as well as in the light of the above cited decision within a further period of two weeks thereafter and communicate the decision taken to the petitioner. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vsm

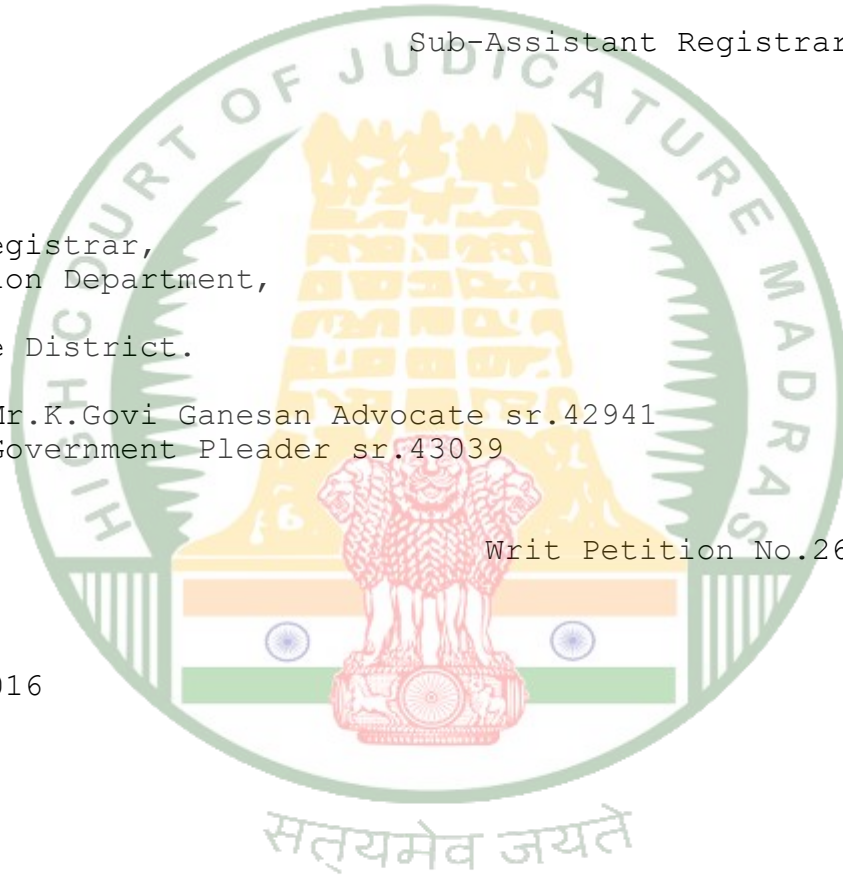
To

The Sub Registrar,
Registration Department,
Sulur,
Coimbatore District.

+1 cc to Mr.K.Govi Ganesan Advocate sr.42941
+1 cc to Government Pleader sr.43039

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