

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.4.2016

CORAM

THE HONOURABLE MR.JUSTICE SATISH K.AGNIHOTRI  
AND  
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Appeal No.532 of 2016  
and  
C.M.P.No.7227 of 2016

R.Keerthivarman

... Appellant

Versus

1. A.Annammal

2. The Joint-I Sub Registrar,  
Sub Registrar Office,  
Rottikkara Street,  
Tindivanam, Villupuram District.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 25.1.2016 made in W.P.No.9064 of 2014.

W.P.No.9064 of 2014 : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondent to register the document dated 15.3.2014 (pending D.No.22/14) presented by the petitioner in respect of property in Survey No.63/1 53-13 total an extent of 1,788 sq.ft vacant land and 1584 sq.ft. tiled house in Door Nos.12 and 13 situated at Vaniya Pilliar Koil Street, Tindivanam Village & Taluk, Villupuram District.

For Appellant : Mr.R.Chellappa

For R2 : Mrs.A.Srijayanthi,  
Special Government Pleader

JUDGMENT

V.BHARATHIDASAN, J.

The instant intra-court appeal is directed against the order dated 25.1.2016 passed in W.P.No.9064 of 2014, allowing the writ petition filed by the first respondent herein.

2. The first respondent herein filed a writ petition seeking a direction to the second respondent, the Joint-I, Sub Registrar, Tindivanam, to register the document dated 15.3.2014 (pending D.No.22/2014) presented by him in respect of property in Survey No.63/1 53-13 of an extent of 1,788 sq.ft vacant land and 1584 sq.ft. tiled house in Door No.12 and 13 situated at Vaniya Pilliar Koil Street Tindivanam Village & Taluk, Villupuram District.

3. The above writ petition was filed on the ground that the first respondent purchased the above mentioned property from one R.Vatsala, daughter of one Dakshinamoorthy Chettiar, and her son Ravikumar, for a valuable consideration and the sale deed was presented before the second respondent herein for registration, but the second respondent, without registering the same, kept the document pending. The further case of the first respondent/writ petitioner was that, originally the above property was owned by one Angammal, a suit for recovery of money was filed against the said Angammal in O.S.No.374 of 1967 and the above suit was decreed, subsequently, the property was brought for Court auction sale in the auction proceedings and one Dakshinamoorthy Chettiar purchased the property in the court auction sale, a sale certificate was also issued to him on 21.4.1969, and the same was registered as document No.23/1969, on the file of the Sub Registrar, Tindivanam. The said Dakshinamoorthy Chettiar became the owner of the property by virtue of court auction purchase, after his death, his legal heirs sold the property in favour of the writ petitioner, and the sale deed was sought to be registered now.

4. It is also seen from the records another writ petition in W.P.No.11441 of 2014 was filed by one Radhabai Ammal, mother of the appellant herein seeking a direction to the Inspector General of Registration and District Registrar, Tindivanam to issue appropriate instruction to the second respondent herein prohibiting him from registration of any document of sale in respect of the same property which is the subject matter in W.P.No.9064 of 2014. The above writ petition was filed on the ground that after the issuance of sale certificate, Dakshinamoorthy Chettiar failed to register a sale deed pursuant to the auction sale, on the other hand, he filed a suit in O.S.No.32 of 1984 before the Sub Court, Tindivanam for declaration of his title over the property and for possession, apart from that the family of Radhabai Ammal was in continuous possession and enjoyment of the property and she is having absolute right over the property. She has also raised objection before the second respondent herein on the ground of pendency of the suit in O.S.No.32 of 1984, which was renumbered as O.S.No.464 of 2009, and since auction sale was confirmed in the year 1969 itself, the auction purchaser cannot register the document in the year 2015.

5. The learned Single Judge heard both matters together and passed common order dismissing the writ petition filed by the mother of the appellant herein in W.P.No.11441 of 2014, and allowed the writ petition filed by the first respondent herein in W.P.No.9064 of 2015, against the order allowing the writ petition, the present appeal has been filed.

6. We have heard Mr.K.Chellappa, learned counsel for the appellant and Mrs.A.Srijayanthi, learned Special Government Pleader for the second respondent.

7. The learned Single Judge dismissed the writ petition in W.P.No.11441 of 2014 holding that if writ petitioner continues to hold the title, her remedy lies elsewhere, and merely because the predecessor in title of the petitioner in W.P.No.9064 of 2014 filed a suit, the same will not confer any right to the petitioner in W.P.No.11441 of 2014 to seek the prayer sought for and it is only an internal dispute between the parties, there is no statutory duty cast upon the second respondent to stop the registration as the dispute sought to be raised is a private one between the parties concerned. Since the first respondent in the writ appeal purchased the property from the legal heirs of the court auction purchaser viz., Dakshinamoorthy Chettiar and the sale certificate is also said to have been registered as Document No.23/1969 on the file of the Sub Registrar, Tindivanam, if the appellant has any grievance over the same, his remedy lies only before the civil court and he cannot prevent the authorities from registering the document.

8. In the above circumstances, we do not find any infirmity or irregularity in the order passed by the learned Single Judge. Hence, the writ appeal fails and consequently, the same is dismissed. No costs. The connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

ssk.  
To

Sub Assistant Registrar

The Joint-I Sub Registrar,  
Sub Registrar Office,  
Rottikkara Street,  
Tindivanam, Villupuram District.

+1cc to Mr.R.Chellappa, Advocate, S.R.No.27161

+1cc to the Government Pleader, S.R.No.26830

Writ Appeal No.532 of 2016

AD(CO)  
CA(18/05/2016)