

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P. No. 7697 of 2016

&

WMP.No.6899 of 216

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1. G. Paramasivam
2. P. Ramesh

.. Petitioners

Versus

1. The District Registrar (Administration)
Ariyalur, Ariyalur Taluk
Ariyalur District
2. The Sub-Registrar
Chettikulam, Perambalur Taluk
Perambalur District
3. Ms. Indira Gandhi

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to the orders passed by the first respondent in Appeal No.1/2013 dated 16.09.2015 and quash the same.

For Petitioners : Mr. S. Kamadevan
For Respondent : Mr. A. Kumar

Special Government Pleader for RR1 and 2
Mr. R. Muralidharan for R3

ORDER

The petitioners questions the order dated 16.09.2015 passed by the first respondent, whereby, the first respondent allowed the appeal filed by the third respondent and issued a direction to the second respondent/registering authority to register the sale deed presented by the third respondent if it is otherwise in order.

2. The petitioners have borrowed a sum of Rs.50,000/- from the third respondent and on receipt of such sum, they have created equitable mortgage of the house site and building in S.F. No.221/1 of Pommnapadi Village measuring 2100 square feet

for Rs.1,00,000/- in favour of the third respondent besides alleged to have signed some blank papers at her instance. However, the blank papers signed by the petitioners were utilised to make it as if they have executed a sale deed in favour of the third respondent and it was presented to the second respondent without the knowledge of the petitioners. The petitioners opposed the execution of the registration of the sale deed mainly on the ground that they denied the very execution of the sale deed in favour of the third respondent. An enquiry was conducted by the second respondent and denied registering the document presented by the third respondent on the ground that the executants have denied the very execution of the sale deed. Aggrieved by the same, the third respondent filed an appeal which was allowed by passing the impugned order.

3. The learned counsel for the petitioners would contend that as against the order dated 16.09.2015 of the first respondent, which is impugned in this writ petition, the petitioners preferred a further appeal to the Deputy Inspector General of Registration, Trichy. However, the said appeal was returned on 03.11.2015 stating that the appeal will not lie and if at all the petitioners have to file only a suit. Accordingly, the petitioners filed a suit in O.S. No. 80 of 2016 before the learned District Munsif, Perambalur to set aside the sale deed said to have been executed by them in favour of the third respondent. The learned counsel for the petitioners would mainly contend that as per Section 72 of the Registration Act, an appeal would lie only if the registering authority register a document presented for registration on various grounds enumerated therein except on the ground of denial of execution by the executant. When the petitioner denied the execution of the sale deed in favour of the third respondent, the appeal would not have been entertained by the first respondent and the impugned order passed in the appeal is legally not sustainable. Further, the first respondent has taken the role of the Civil Court in examining witness and arriving at a conclusion regarding title to the suit property while passing the impugned order. Therefore, the learned counsel for the petitioner prayed for allowing the writ petition.

4. On the other hand, the learned Additional Government Pleader would contend that the order, which is impugned in this writ petition, has been passed after conducting appropriate enquiry and examining the witness.

5. The learned counsel for the third respondent would contend that there is no reason to disbelieve the validity of the sale deed executed in favour of the third respondent by the petitioner. Having regard to the same, the first respondent has rightly passed the order which is impugned in this writ petition and it does not call for any interference by this Court. In any

event, the petitioner has filed a civil suit for declaring the sale deed executed in favour of the third respondent as null and void, while so, he is estopped from questioning the order passed by the first respondent.

6. I heard the learned counsel on either side and perused the materials placed on record. Admittedly, the petitioner has filed a suit in O.S. No. 80 of 2016 on the file of the learned District Munsif, Perambalur seeking to set aside the sale deed allegedly executed by him in favour of the third respondent on the ground that the third respondent has forged and fabricated the signatures made by him in blank to make it as if the petitioner has executed the sale deed in question. In other words, the petitioner has denied the execution of the sale deed by him in favour of the third respondent. When a comprehensive suit is pending, it is for the Civil Court to decide the title to the property. In such view of the matter, the prayer sought for in this writ petition, questioning the validity of the order passed by the first respondent need not be gone into by this Court in this writ petition and it is left open to be decided by the Civil Court. It is needless to mention that during the course of trial in the civil suit, it is open to the petitioner to produce documentary evidence to show that the sale deed has not been executed by him for any valuable sale consideration and also to deny the execution of the sale deed. Upon trial, the Civil Court shall deal with the rights of the parties dehors the order passed by the first respondent which is impugned in this writ petition. It is also brought to the notice of this Court that already the petitioner has filed an application pending the suit for grant of interim injunction under Order 39 Rule 1 and 2 of CPC. Since this Court has already granted interim injunction in this writ petition in WMP No. 6899 of 2016, the same shall continue till 05.11.2016 so as to enable the petitioner to approach the Civil Court and to seek for an interim order in the pending application.

7. With the above direction, the writ petition is disposed of. No costs. Consequently, connected WMP No. 6899 of 2016 is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The District Registrar (Administration)
Ariyalur, Ariyalur Taluk
Ariyalur District

2. The Sub-Registrar
Chettikulam, Perambalur Taluk
Perambalur District

+1 cc to Mr.S.Kamadevan Advocate sr 59198

+1 cc to Mr.R.Muralidharan Advocate sr 59381

+1 cc to government pleader sr 59647

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