



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.19559 of 2017 and

W.M.P. (MD) No.15847 of 2017

G.Ilanchellian

... Petitioner

-vs-

1. The Sub Registrar,
Sub Registrar Office,
Kunnoor, Srivilliputtur Taluk,
Virudhunagar District.

2.Pommiah

3.Seeni @ Alagarsamy

... Respondents
4.

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 1st respondent dated Nil (16.10.2017) and quash the same as illegal and consequently direct the 1st respondent to register the Lease Deed of the petitioner dated 09.10.2017.

For Petitioner : Mr.M.Thirunavukkarasu

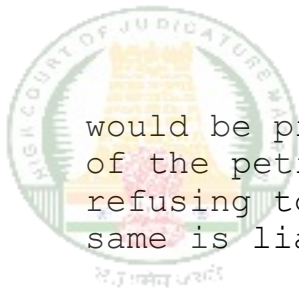
For R1 : Mr.T.S.Mohamed Mohideen
Addl. Govt. Pleader

For R2 & R3 : Mr.G.Marimuthu

O R D E R

This writ petition has been filed, seeking to quash the impugned order of the 1st respondent, who refused to register the lease deed, holding that the property in question is the subject matter of pending O.S.No.46 of 2005 before the Sub Court, Srivilliputtur. The petitioner also sought a direction to the 1st respondent to register the Lease Deed of the petitioner dated 09.10.2017.

2. The learned counsel for the petitioner would submit that initially, an order of interim injunction was granted in I.A.No.137 of 2005 in O.S.No.46 of 2005 and subsequently, the main suit itself was dismissed for non prosecution. Later, though the suit was restored, there is no reference with regard to the restoration of the interim order. Pursuant to non-registration of the deed, the petitioner-school is not in a position to get necessary clearance from the educational authorities, as the application filed before the DEEO, Virudhunagar is kept pending, stating that the application



would be processed after the lease of the property is made in favour of the petitioner school. Therefore, the act of the 1st respondent in refusing to register the lease deed is un-sustainable in law and the same is liable to be set aside.

3. Per contra, the learned Additional Government Pleader appearing for R1 would contend that when disputes are pending in the Court below in respect of the lease scheduled property, the deed cannot be registered blindly without reference to the pendency of the suit. Moreover, the petitioner has approached this Court in his personal capacity as the Correspondent of the School and therefore, the petition has to be dismissed *in limine*. The said submission is strongly supported by the learned counsel for the respondents 2 & 3.

4. Heard the learned counsel for the parties.

5. Admittedly, the title related to the property is in dispute, as against the vendor of the petitioner, there lies an order of interim injunction. In addition, the interim order granted by the Civil Court also got entered in the encumbrance certificate. It is also not in dispute that the lessor and the lessee in respect of the property are one and the same. Under such circumstances, while declining to interfere with the impugned order of the 1st respondent, this petition is disposed of, permitting the petitioner to file necessary affidavit before the educational authorities for their consideration, within a period of two weeks from the date of receipt of a copy of this order and on such filing, the same shall be considered and decision be taken thereon, within a period of four weeks thereafter on merits and in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To:

The Sub Registrar,
Sub Registrar Office,
Kunnoor, Srivilliputtur Taluk,
Virudhunagar District.

+1cc to M/s. G.M.LAW OFFICE Advocate in SR. No. 86311
+1cc to M/s. M.THIRUNAVUKKARASU Advocate in SR. No. 86170
+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 86559

AR

JS/SKN.RSK/SAR.3/13.11.2017/2P-5C

W.P(MD)No.19559 of 2017

09.11.2017