

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.7929 of 2011 and
M.P.No.1 of 2011

D.Ravi

... Petitioner

-Vs-

1.The Sub-registrar,
Registration Department,
Saram, Puducherry-13.

2.Valliammal @ Kannammal

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to forbear the 1st respondent from registering any document relating to Old Door No.6/22, New Door No.9 (Now. 54) in Madha Koil Street, Puducherry-7.

For Petitioner : Mr.M.V.Venkataseshan
For Respondents : Mr.J.Pothiraj,
Special Government Pleader for R1
: Mr.N.V.Prasanna for
M/s.Sai Bharath & Ilan for R2

O R D E R

Heard Mr.M.V.Venkataseshan, learned counsel for the petitioner and Mr.J.Pothiraj, learned Special Government Pleader appearing for the first respondent and Mr.N.V.Prasanna, learned counsel appearing for the second respondent.

2. The petitioner has approached this Court, seeking the following relief:-

"To issue a Writ of Mandamus, to forbear the 1st respondent from registering any document relating to Old Door No.6/22, New Door No.9 (Now. 54) in Madha Koil Street, Puducherry-7."

3. The case of the petitioner is as follows:-

It appears that there is dispute regarding the title and possession of the property in respect of Old Door No.6/22, New Door No.9 (Now 54) of Madha Koil Street, Aryinakuppam, Puducherry-7. A suit was filed in O.S.No.80/91 by the petitioner herein along with few others, against the second respondent and others. The suit came to be dismissed and aggrieved by the same, the A.S.No.635/2001, was filed before this Court.

4. According to the petitioner, in the appeal which was pending before this Court, an order of injunction was given on 29.06.2001, restraining the respondents from alienating, encumbering or altering the nature of the suit property. According to the petitioner, the order of injunction is still in force. The appeal which was filed before this Court was transferred to the file of the Principal District Court, Puducherry, on the basis of revised pecuniary jurisdiction and re-numbered as A.S.No.219/2006 and the same is pending.

5. While so, the petitioner has come up with the present writ petition with the prayer to restrain the first respondent from registering any document pertaining to the suit property, in view of the injunction granted by this Court in the appeal suit.

6. Upon notice, learned Special Government Pleader appearing for the first respondent and learned counsel appearing for the second respondent, entered appearance.

7. The learned counsel appearing for the second respondent would submit that the suit is pending before the Principal District Judge, Puducherry and in case, the petitioner herein is aggrieved by any action of the second respondent, he can always approach the said Civil Court for obtaining necessary orders in that regard. Without approaching the Civil Court, the petitioner has chosen to approach this Court by invoking extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

8. This Court is in agreement with the submission made by the learned counsel for the second respondent. This Court finds that the prayer as such sought in the writ petition is per se not maintainable and an attempt has been made by the petitioner to convert this Court as a Court of execution. Such remedy for the petitioner cannot be asked in this writ petition as proper remedy. The petitioner need to approach the Civil Court where the appeal suit is pending, in case, the petitioner requires any further directions to protect his interest, pending disposal of the appeal.

9. In the above said circumstances, this writ petition has to be dismissed as not maintainable. It is open to the petitioner to approach the Civil Court where the appeal suit is pending. He can obtain necessary orders in order to protect his right, pending in the appeal suit, if he so advised.

10. The writ petition is therefore dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

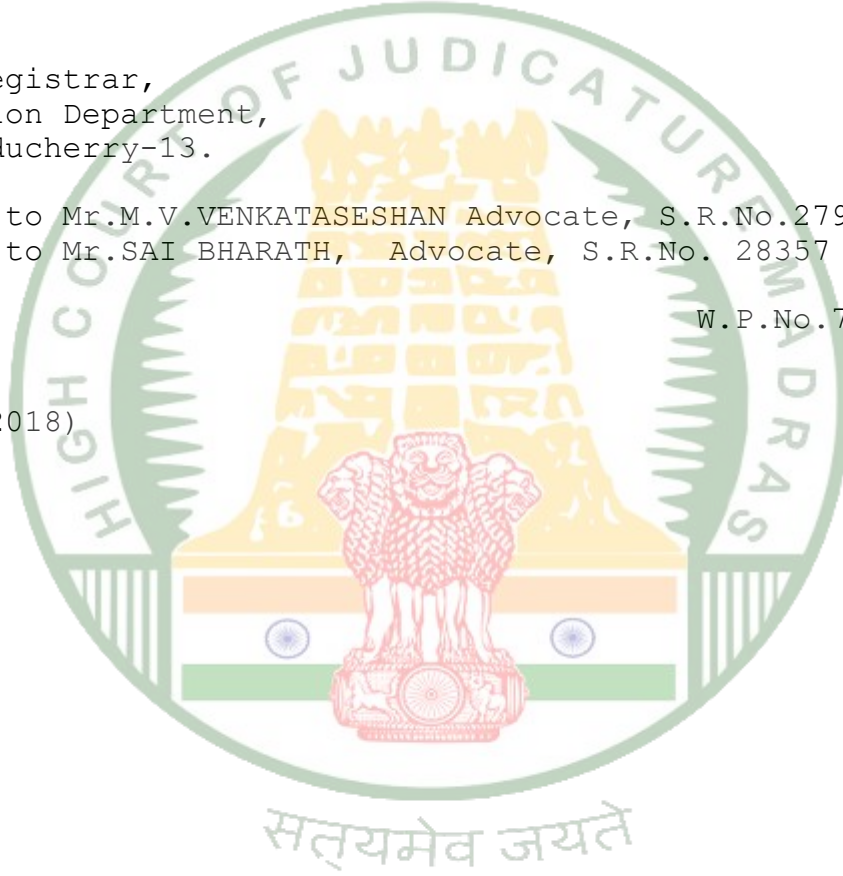
gsk
To

The Sub-registrar,
Registration Department,
Saram, Puducherry-13.

+1cc to Mr.M.V.VENKATASESHAN Advocate, S.R.No.27977
+1cc to Mr.SAI BHARATH, Advocate, S.R.No. 28357

W.P.No.7929 of 2011

TR(14/05/2018)



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