



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 30.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN
W.P. (MD) No.2791 of 2018

WEB COPY

M.Balasubramanian

... Petitioner

vs.

1.The District Registrar,
Virudhunagar District,
Virudhunagar.

2.The Sub Registrar,
Sethur Sub Registrar Office,
Rajapalayam Taluk,
Virudhunagar District.

... Respondents

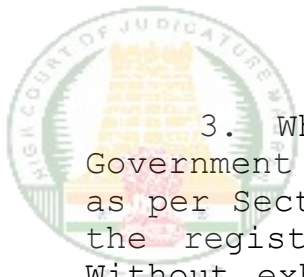
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus to call for records relating to the impugned memo issued by the second respondent in ~~நிலுவை ஆவண எண்~~ P.13/2017, dated 30.01.2018 and quash the same as illegal and consequently directing the second respondent to register the sale deed submitted by the petitioner dated 30.10.2017.

For Petitioner : Ms.J.Balameenakshi
For Respondents : Mr.M.Murugan
Government Advocate

O R D E R

The case of the petitioner is that he and one Selvaraj jointly purchased the properties in Survey Number 103/1A to the extent of 1 acre 42 cents and in Survey Number 103/1C to the extent of 76 cents totally 2 acres 18 cents vide sale deed dated 29.08.1997 registered as document No.940/1997. Thereafter, the property was partitioned between the petitioner and Selvaraj and the said Selvaraj appears to have sold his share to various persons.

2. Presently the petitioner wanted to sell his property due to financial requirement and therefore, he presented a document before the second respondent on 30.10.2017. But the second respondent refused to register the document and passed an order on 30.01.2018 stating that the property is unapproved and therefore, the same cannot be registered. The said order passed by the second respondent is put to challenge in the present writ petition.



3. When the matter is taken up for hearing, the learned Government Advocate appearing for the respondents would submit that as per Section 72 of the Registration Act 1908, in case a refusal of the registration, an appeal would lie to the first respondent. Without exhausting the remedy of appeal, the petitioner has chosen to directly approach this Court by invoking its extraordinary jurisdiction under Article 226 of the Constitution of India. Therefore, he would submit that the writ petition is not maintainable as there is an effective alternative remedy is available.

4. Considering the submission made on behalf of the respondents, this Court is of the view that once an effective alternative remedy is available under the relevant statute, the same has to be exhausted before invoking the special jurisdiction of this Court under Article 226 of the Constitution of India.

5. Without invoking the appeal remedy as provided in the Registration Act 1908, the petitioner cannot be allowed to approach this Court directly by invoking its writ jurisdiction. In any event, the appeal before the first respondent is an effective alternative remedy which has to be exhausted before exhausting any further legal course.

6. For the above stated reasons, this Court accepts the contentions of the learned Government Advocate appearing for the respondents. Therefore, the writ petition is dismissed as not maintainable. No costs.

7. The time to which the writ petition is kept pending before this Court shall stand excluded for the purpose of limitation as prescribed in the Act for filing an appeal.

Sd/

Assistant Registrar (AS)

/True copy/

Sub Assistant Registrar (CS-IV)

To:

1. The District Registrar,
Virudhunagar District,
Virudhunagar.
2. The Sub Registrar,
Sethur Sub Registrar Office,
Rajapalayam Taluk,
Virudhunagar District.

+1cc to Mr. BALA MEENAKSHI, Advocate, SR.No.81514

+1cc to M/s. Special Government Pleader, SR.No. 81483

W.P. (MD) No.2791 of 2018

30.08.2018