



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2018

CORAM:

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.22586 of 2018

and

W.M.P((MD)No.20466 of 2018

S.Minnalkodi

... Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Pattinapakkam,
Chennai - 600 028.

2.The District Registrar,
Y.Othakadai,
Madurai,
Madurai District.

3.The Sub-Registrar (Tallakulam),
Joint Sub-Registrar Office,
Y.Othakadai,Madurai,
Madurai District.

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the third respondent in petitioner's objection petition No.13/2018, dated 01.11.2018 and quash the same and consequently to restrain the respondents from making any registration pertaining to the property situated in T.S.No.1181, Door No.1A, Mohammadiar Street, Goripalayam, Madurai.

For Petitioner : Ms.P.Yasmin Begum

For Respondents : Mr.M.Murugan,
Government Advocate.

ORDER

This writ petition has been filed seeking a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the third respondent in petitioner's



objection petition No.13/2018, dated 01.11.2018 and quash the same and consequently to restrain the respondents from making any registration pertaining to the property situated in T.S.No.1181, Door No.1A, Mohammadiar Street, Goripalayam, Madurai.

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2.The case of the petitioner is that she is residing in the above said address from 1993. Originally, the said property belonged to one late.Ganeshammal, w/o.late.Murugan. The said Ganeshammal was in possession and enjoyment of the property, as absolute owner and after her demise, her husband Murugan was in possession and enjoyment of the property. In the year 1993, the petitioner approached the said Murugan and entered into a lease agreement for using the property for residential purposes and paid rent to him. After the demise of the said Murugan, his legal heirs made partition of the properties among themselves and one Uma Matheshwari and her daughter, namely Muthumeena obtained the property vide registered sale deed, dated 22.03.2018. The said Uma Matheshwari persuaded the petitioner to purchase the said property. Both the petitioner and the said Uma Matheshwari entered into an unregistered sale agreement for a sum of Rs.4,900/- per square feet on 18.04.2018 and an advance amount of Rs.2,00,000/- was paid by the petitioner, which was also received by Uma Matheshwari on the same day and it was agreed that the entire sale proceedings should be completed within a period of four months. In the meantime, the petitioner arranged the entire sale amount to purchase the property and approached the said Uma Matheshwari to execute the sale deed in favour of her, but Uma Matheshwari refused to receive the sale amount and started demanding increased rate per square feet and she along with some goondas threatened her to vacate the property and she made arrangements to sell the property to third party at an increased rate. Hence, the petitioner preferred a suit in O.S.No.496 of 2018, on the file of the District Munsif Court, Madurai along with I.A.No.644 of 2018 for injunction and to restrain the land owners from alienating the property. Pending suit, the land owners tried to make registration to third parties and hence, the petitioner issued a lawyer's notice and issued paper publication in 'Daily Thanthi' on 14.09.2018 and also gave an 'objection letter' before the third respondent on 25.09.2018. She has submitted all the relevant documents before the third respondent not to register any document in respect of the said disputed property. The petitioner was called for an enquiry by the third respondent on 16.10.2018. Since the petitioner was not in station, she could not attend the same. In the mean time, the third respondent issued the impugned order, dated 01.11.2018, by rejecting the objection petition submitted by the petitioner. Aggrieved by the said impugned order, the petitioner has approached this Court by way of filing the Writ Petition under Article 226 of the Constitution of India.

3.Heard the learned counsel appearing for the petitioner and



Mr.M.Murugan, learned Government Advocate, who takes notice for the respondents and perused the materials available on record.

4.It could be seen from the records that the agreement for sale was made only in a 100 rupees stamp paper, without any valid registration and the suit filed by the petitioner against the said Uma Matheswari and her daughter Muthu Meena is only for injunction restraining the defendants to evict the plaintiff/petitioner, without following the due process of law and an application filed to restrain the defendants from alienating the property.

5.On a perusal of the impugned order, dated 01.11.2018, it could be seen that the petitioner's application has been considered and found that the said sale agreement, dated 18.04.2018 is not a registered one and as per the Circular in Na.Ka.No.39708/C1/2018, dated 04.10.2018, from 01.12.2012, sale agreements have to be registered compulsorily and the Sub-Registrars need not consider the documents, which are not registered and through which, if anybody claims any title or legal right, the same cannot be accepted and it should be rejected and as per the said Circular, the Sub-Registrar has rightly rejected the objection raised by the petitioner herein on 01.11.2018.

6.The petitioner has not approached this Court with clean hands. If the petitioner is really aggrieved against the impugned order of the third respondent, she ought to have approached the Civil Court for appropriate relief by filing a separate suit for specific performance, instead she has filed the suit not to evict her without due process of law and the same is pending. It is seen that she has not initiated any proceedings against the land owners regarding non-executing any sale deed in her favour after receiving the balance amount. The respondents are duty bound to enforce the orders from the competent Court and if there is any order restraining the respondents from registering any document, they will reject the same. When there is no order obtained by the petitioner, the respondents need not consider her objection.

7.While that being so, the authorities concerned has correctly rejected the said objection of the petitioner and this Court is not inclined to interfere with the impugned order passed by the third respondent. If the petitioner is aggrieved by the said impugned order, she ought to have approached the Civil Court for necessary relief and cannot approach this Court by way of filing the present Writ Petition invoking Article 226 of the Constitution of India.

8.In view of the above, this Court is not inclined to



interfere with the order passed by the third respondent and accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(C.O)

/True Copy/

Sub Assistant Registrar(CS-II)

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To

1.The Inspector General of Registration,
No.100, Santhome High Road,
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2.The District Registrar,
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Madurai,
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3.The Sub-Registrar (Tallakulam),
Joint Sub-Registrar Office,
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+1cc to Spl Government Pleader, SR No.94740

W.P(MD)No.22586 of 2018

NM/SV/SAR II/22.11.18/4P/5C