



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

W.A[MD].No.1465 of 2011
and
M.P. (MD) No.1 of 2011
in
W.P. (MD) No.7478 of 2010

Selvi : Appellant/ 2nd Respondent

Vs.

1. The Sub Registrar,
Office of the Sub-Registrar,
Madurai North,
Thamaraipatti,
Madurai District.

: 1st Respondent/1st Respondent

2.R.A.Ramachandran

: 2nd Respondent/Petitioner

PRAYER: Appeal is filed under Clause 15 of Letters Patent Act, to set aside the order of the learned single Judge of this Court, dated 22.11.2011 in W.P. (MD) No.7478 of 2010.

Prayer in WP(MD). 7478/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of writ calling for the impugned order passed by the respondent in his proceedings - Nil - dated - Nil - and quash the same as illegal and consequentially to direct the respondent to register the sale deed dated 24.05.2010 within the stipulated period.

For Appellant : Mr.V.Sasikumar

For R-1 : Mr.M.Murugan
Government Advocate

For R-2 : Mr.C.Venkateshkumar
for
Mr.Ajmal Associates

**JUDGEMENT**

[Judgement of the Court was delivered
by **K. RAVICHANDRABAABU, J**]

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The second respondent in the writ petition is the appellant herein. He is aggrieved against the order of the learned single Judge in allowing the writ petition and directing the first respondent to register the subject-matter document.

2. Heard both sides.

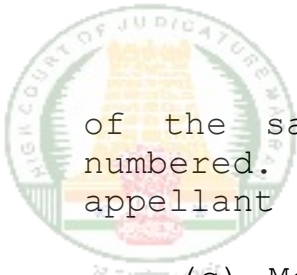
3. The first respondent herein, as the writ petitioner, got a sale deed executed by one Sekar and his brother on 24.05.2010 and presented the same for registration before the first respondent herein. The first respondent returned the sale deed without registering the same only on the reason that the appellant herein filed a suit for bare injunction against her co-sharers, from whom, the writ petitioner purchased the property. Challenging the said action of the registering authority, the writ petitioner filed the above writ petition. The learned single Judge, after pointing out that the suit is one for bare injunction and that there was no interim injunction granted in favour of the appellant herein in the said suit, allowed the writ petition and directed the registering authority to register the document, also by pointing out that the registering authority is entitled to return the document without registration only under the Contingency listed in Rule 22 of the Registration Rules, and filing of a case for bare injunction is not the one of such contingencies mentioned in the said Rule.

4. After notice, this writ appeal is listed before us for further hearing today. It is represented by both the parties that the suit filed by the appellant herein was also dismissed for default on 02.11.2016. However, it is stated by the learned counsel for the appellant that an application seeking for restoration of the suit has already been filed but not yet numbered.

5. Considering the above stated facts and circumstances, the following facts would emerge for our consideration:-

(a) As on date, no decree or order is operating against the writ petitioner in getting his sale deed registered before the registering authority;

(b) The suit filed by the appellant, that too, for bare injunction, was also dismissed as early as on 02.11.2016 and even though it is stated that an application is filed for restoration



of the said suit, admittedly, such application is yet to be numbered. Therefore, it has to be taken that the suit filed by the appellant is already dismissed and not restored so far.

(c) Moreover, it is to be noted that the very suit filed by the appellant was only for bare injunction and not for declaration of her exclusive right. Even otherwise, it is stated that she is only a co-sharer.

6. When all these facts and circumstances evidently lead to an irrevocable conclusion that there is no legal impediment for the registering authority viz., the first respondent herein to register the document, we do not find any reason to interfere with the order of the learned single Judge, in directing the registering authority to register the document. Needless to say that if the appellant is having any title dispute it is for her to work out appropriate remedy before the Civil Court in the manner known to law, if at all if she has any subsisting right as against the subject-matter property covered under the sale deed.

7. Accordingly, the Writ Appeal fails and the same is dismissed. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

Sd/-

Assistant Registrar(Crl side)

/True Copy/

Sub Assistant Registrar

To

1. The Sub Registrar,
Office of the Sub-Registrar,
Madurai North,
Thamaraipatti, Madurai District.

+ 1 cc TO M/S.Ajmal Associates , Advocate in SR No. 61830
+ 1 cc TO Mr.A.Mohan , Advocate in SR No. 62311
+ 1 cc TO The Special Government Pleader in SR No. 61901

rj2

AE/JC/SAR1/08.05.2018/3P/5C

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