



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2018

CORAM:

WEB COPY

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

**W.A[MD] .No.14 of 2013
and
M.P. (MD) No.1 of 2013**

S.Kalaiselvi : Appellant/Petitioner

Vs.

1. C.Chandra Bose

2. The District Registrar,
District Registrar Office,
Dindigul.

3. The Sub-Registrar,
Sub-Registrar Office,
Nilakottai,
Dindigul District.

: Respondents/Respondents

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 27.08.2012 in W.P.(MD)No.242 of 2012.

Prayer in WP(MD).242/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the 2nd respondent to release the Petitioner s sale deed in Document No.28/2011 dated 06.06.2011 and to pass any order which is deem to fit in the facts and circumstances of the case and thus render justice,

For Appellant : Mr.R.R.Kannan

For R-2 and R-3 : Mr.M.Murugan
Government Advocate

For R-1 : No appearance

JUDGEMENT

[Judgement of the Court was delivered by **K.RAVICHANDRABAABU, J]**
<https://hcservices.ecourts.gov.in/hcservices/>

The appellant is the third party to the writ petition.



The first respondent herein as the writ petitioner prayed for issuance of writ of Mandamus directing the Sub Registrar, Nilakkottai, who was the second respondent in the writ petition, to release the sale deed in document No.28/2011, dated 06.06.2011. According to the writ petitioner, he has purchased the subject matter property from one Karuppannan and presented the sale deed for registration before the second respondent, who in turn sought to conduct an enquiry in respect of the objection received from the appellant herein, regarding the subject matter property. At that stage, the writ petitioner approached this Court and filed the writ petition. A counter affidavit was filed by the second respondent in the writ petition stating that one Kalaiselvi, W/o.Santhakumar, the appellant before us, filed an objection on 06.06.2011 and in view of the said objection, the matter will have to be enquired into. When the writ petition was pending, though the writ Court, directed the writ petitioner to implead the said Kalaiselvi/appellant before us, as party respondent, however, the writ petitioner has not taken any steps to do so. Consequently, the writ petition was disposed of on 27.08.2012 by directing the Sub Registrar to conduct enquiry and pass appropriate orders. Also, by directing the writ petitioner to give co-operation and proceed with enquiry. The said order of the learned single Judge is challenged in this writ appeal.

2.The grievance of the appellant before us is that when the property belongs to her, the purchase made by the writ petitioner from a third party and presenting such sale deed before the second respondent for registration are not legally sustainable. In this writ appeal, though notice was ordered to the first respondent/writ petitioner, he has not chosen to appear before this Court even after receipt of such notice. On the other hand, his name is printed in the cause list today.

3.We heard the learned counsel appearing for the appellant and the learned Government Advocate appearing for the respondents 2 and 3.

4.According to the appellant, the property belongs to her, with which, the writ petitioner cannot have any right or title based on the subject matter sale deed, which is said to have been executed by one third party viz., Karuppannan. Perusal of the order passed by the learned single Judge would show that the interest of the appellant before us is not affected or prejudiced in any way, as the learned Judge has only directed the Sub Registrar to conduct enquiry, which was contemplated based on the objection raised by the appellant on 06.06.2011. Therefore, it is for the registering authority viz., the second respondent in the writ petition to conduct such enquiry and pass appropriate orders <https://hccourtservices.in> the writ petitioner as well as the appellant before us. Now, it is stated before us that the enquiry is already over and the Sub Registrar, viz., the third respondent herein has to



pass a final order. When already a direction is issued by the learned single Judge to pass such appropriate orders after conducting enquiry, needless to say that it is for the third respondent herein to pass appropriate orders based on such enquiry conducted already. Only when an order is passed by the third respondent, it will be known as to who will be the aggrieved person against such an order. Therefore, the appellant has approached this Court and filed this writ appeal after seeking leave, at pre-matured stage without waiting for the Sub Registrar to pass such an order.

5. Accordingly, without expressing any view on the merits of the claim made by the respective parties, this writ appeal is disposed of by directing the third respondent herein to pass orders based on the enquiry conducted already, within a period of four weeks from the date of receipt of a copy of this order. As it is seen that during the pendency of the writ appeal, an interim direction was issued to the third respondent not to release the document, pending disposal of the writ appeal, the same position shall continue till a final order is passed by the third respondent. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1. The District Registrar,
District Registrar Office,
Dindigul.

2. The Sub-Registrar,
Sub-Registrar Office,
Nilakottai,
Dindigul District.

+1. C.C. to M/S. The Special Government pleader SR.No.63363
+1. C.C. to M/S. RR. Kannan, Advocate SR.No.63135

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rj2

PK/CM-PN/SAR-3/16.05.2018 : 3P/5C