

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE T. RAJA

Writ Petition No.2674 of 2015

and M.P.Nos.1 and 2 of 2015

A.Venkatachalapathy

Petitioner

Vs

1. The Sub-Registrar,
Ayodyapattinam,
Salem District.

2. A.Kathiravan

3. K.Vijayalakshmi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent herein culminating in the Check Slip No.1 of 2014 on the file of the 1st respondent herein dated 28.11.2014 and quash the same and consequently, direct the 1st respondent herein to register the sale deed dated 28.11.2014 presented by the petitioner herein within the time frame stipulated by this Court.

For Petitioner : Mr.M.Santhanaraman

For Respondents: Mr.P.Purushothaman,

Govt. Advocate for R1

Mr.A.Nagarathinam for R2 & R3

O R D E R

Mr.A.Venkatachalapathy claiming to be the purchaser of the property-in-question under Sale Deed dated 28.11.2014 has come to this court with this Writ Petition challenging the impugned Proceedings dated 28.11.2014 giving reasons for refusal to register the document-in-question.

2. Learned Counsel appearing for the petitioner assailing the impugned order submitted that when the petitioner has purchased the property from H.Jailabudeen, S/o.N.M.Haniffa under a Sale Deed dated 28.11.2014, such sale deed be registered in the manner known to law by the Sub-Registrar, Ayodyapattinam, Salem District. He cannot refuse to register on the ground that a civil suit is pending in respect of the same land. It is also explained that when power was given on 15.07.2011, by virtue of the said power given by the 3rd respondent herein, a sale deed has been registered on 15.07.2011 in favour of 3rd defendant Vasudevan and 4th defendant Ravi by 1st defendant G.Ganesan, who were shown in the pending civil suit in O.S.No.513/2012 on the file of the Principal District Munsif, Salem. During the pendency of the civil suit, the defendants 3 and 4 also have executed another sale deed dated 17.04.2013 in favour of the 9th defendant, namely, H.Jailabudeen, S/o.N.M.Hanifa, who in turn has executed a Sale Deed in favour of the petitioner under a Registered Sale Document dated 28.11.2014, that has not been accepted by the 1st respondent herein. Therefore, a direction be issued, it is pleaded.

3. A counter affidavit has been filed by the 2nd respondent on his behalf and also on behalf of his wife, the 3rd respondent.

4. Learned Government Advocate appearing for the 1st respondent states that if the petitioner is aggrieved by the order refusing with reasons to register the document-in-question, he cannot come to this Court invoking Article 226 of the Constitution of India as he has got the better effective alternative statutory remedy of filing appeal under Section 72 of the Registration Act (hereinafter referred to as, 'the Act').

5. A perusal of the Section 72 of the Act shows that if there is a reason given for refusal to register the document by the Sub-Registrar, the aggrieved person can avail the effective alternative statutory remedy provided under Section 72 of the Act. Therefore, as per the settled legal position, if there is an existence of effective alternative statutory remedy, invoking Article 226 of the Constitution of India is barred. Therefore, this Court is not inclined to entertain the Writ Petition, however, giving liberty to the petitioner to invoke the statutory provision conferred under Section 72 of the Act, the Writ Petition is dismissed. It is made clear that since the petitioner has approached this Court wrongly, the District Registrar can exclude the pendency of the writ petition for the purpose of filing appeal under Section 72 of the Act, if he

approaches within two weeks time. No costs. Consequently,
connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

tsi

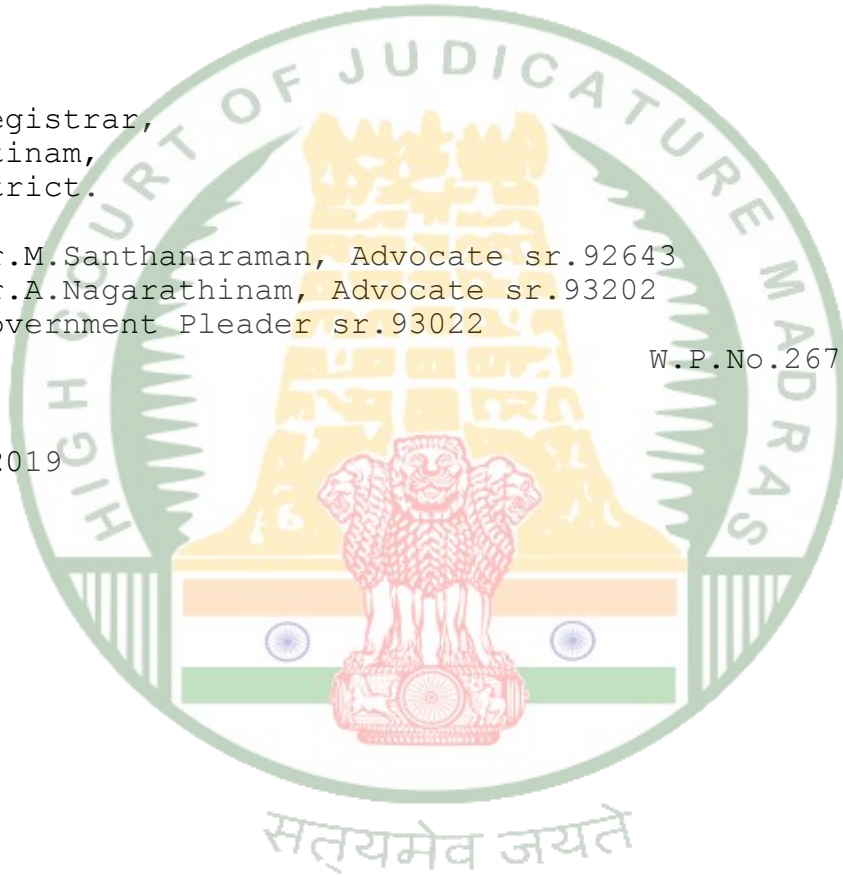
To

The Sub-Registrar,
Ayodyapattinam,
Salem District.

+1cc to Mr.M.Santhanaraman, Advocate sr.92643
+1cc to Mr.A.Nagarathinam, Advocate sr.93202
+1cc to Government Pleader sr.93022

W.P.No.2674 of 2015

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nr 11/11/2019



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