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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2019

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P. No.14034 of 2019

Rukmani Amma

...Petitioner

Vs.

The Sub-Registrar,
Hosur - 635 109.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records in proceedings of Refusal No:RFL/Hozur/1/2019 dated 05.03.2019 on the file of the Respondent and quash the same as illegal, incompetent and without jurisdiction and further direct the Respondents to register the settlement deed presented by the Petitioner on 05th March 2019.

For Petitioner : Mr. Avinash for
Mr. V. Raghavachari

For Respondent : Mr.T.M.Pappiah,
Special Government Pleader.

O R D E R

The Petitioner is aggrieved by the refusal of the Respondent to register the document presented by her for registration in respect of the property, which forms the subject-matter of the suit in O.S. No. 142 of 1977 on the file of the District Munsif Court, Hosur, in which she is the Plaintiff and in which a preliminary decree has been passed on 06.01.1983 and final decree proceedings are pending.

2. In this regard, reference may be made to Section 52 of the Transfer of Property Act, 1882, which reads as follows:-

"52. Transfer of property pending suit relating thereto:-During the pendency in any Court having authority within the limits of India excluding the State of Jammu and Kashmir or established beyond such limits by the Central



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Government of any suit or proceedings which is not collusive and in which any right to immoveable property is directly and specifically in question, the property cannot be transferred or otherwise dealt with by any party to the suit or proceeding so as to affect the rights of any other party thereto under any decree or order which may be made therein, except under the authority of the Court and on such terms as it may impose."

On a perusal of the aforesaid legal provision, it is evident that when the suit in respect of which immovable property is directly and specifically in question, any party to that suit cannot transfer or otherwise deal with such property without obtaining the prior permission of the Court, where such suit is pending. This would obviously mean that it is open to the Petitioner to make necessary application following the aforesaid procedure prescribed under Section 52 of the Transfer of Property Act, 1882 before the Civil Court, where the suit is pending for permission to transfer or deal with the same by disclosing the nature of proposed transaction with details of the transferees so that appropriate orders in that regard could be passed on such application, and depending upon its outcome, the Petitioner could present the document for registration before the Respondent. In that view of the matter, no infirmity appears in the decision-making process of the Respondents. Consequently, it would not be possible to grant the relief as sought by the Petitioner in the Writ Petition.

3. Accordingly, the Writ Petition is disposed with the aforesaid observations. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Sub-Registrar,
Hosur - 635 109.

+1cc to Mr. V. Raghavachari, Advocate sr.60995

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nr 06/01/2020