

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2019

CORAM

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

W.P. No. 20712 of 2019

and

W.M.P.No. 19870 of 2019

Ambujammal

...

Petitioner

Vs.

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

2. The Deputy Registrar
Office of the Deputy Registrar,
No.1, Thiruvannamalai Road,
Krishnagiri.

3. The Sub Registrar
Office of S.R.O.
Veppanampalli Registrar Office,
Krishnagiri District.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the Third Respondent herein to register the sale deed dated 08.05.2019 with regard to the Petitioners property Survey No.255/5 having an extent of 85 cents of land.

For Petitioner : Mr. R. Ramesh

For Respondents: Mr. T.M. Pappiah (For R1 to R3)
Special Government Pleader

O R D E R

The Petitioner is aggrieved by the refusal of the Respondents to register the documents presented by him for registration in respect of the property which forms the subject matter of pending suit in O.S. No. 132 of 2018 on the file of the District Munsif Court, Krishnagiri, in which she is the First Defendant.

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 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 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 the registration of any document could be made after following the aforesaid procedure prescribed in Section 52 of the Transfer of Property Act, 1882. There does not appear to be any infirmity in the decision making process of the Respondents. Resultantly, it would not be possible to grant the relief as sought by the Petitioner in the Writ Petition.

4. Accordingly, the Writ Petition stands dismissed with the aforesaid observations. Consequently, connected Miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

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

2. The Deputy Registrar
Office of the Deputy Registrar,
No.1, Thiruvannamalai Road,
Krishnagiri.

3. The Sub Registrar
Office of S.R.O.
Veppanampalli Registrar Office,
Krishnagiri District.

+1cc to Mr. R. Ramesh, Advocate sr.61603

+1cc to Government Pleader sr.62400

W.P.No.20712 of 2019

mg(co)
nr 30/08/2019



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