

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2019

CORAM

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

W.P. No. 33885 of 2019

Syed Akbar Hussainni

... Petitioner

-vs-

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

2. The District Registrar (Administration),
District Registrar Office,
Rajaji Street, JCK Nagar,
Chengalpattu - 603 001.

3. The Sub-Registrar,
Sunkuvarchattiram Sub-Registrar Office,
Sunguvarchattiram,
Kancheepuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for impugned order dated 23.01.2019, passed by the 3rd respondent, Sub Registrar, Sunguvarchattiram and also dated 04.03.2019 Letter No.355/A1/2019 (Letter No.355/Aa1/2019) passed by the 2nd respondent the District Registrar (Administration) to refused registrar Settlement Deed TP/54559740/2019 dated 21.01.2019 and quash the same and directing respondents to register the settlement deed TP/54559740/2019 dated 21.01.2019 presented by the petitioner.

For Petitioner : Mr. N. Pichaipillai

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

O R D E R

The Petitioner is aggrieved by the refusal of the Third Respondent to register the document presented by him for registration in respect of the property, which forms the subject-matter of the suit in O.S. No. 64 of 2010 on the file of the District Judge, District Court-II, Kancheepuram, in which he is the Fourth Plaintiff and in which after passing of preliminary decree on 30.06.2017, final decree is awaited.

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 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(CCC)

//True Copy//

To Sub Assistant Registrar

1. The Inspector of General of Registration,
No.100, Santhome High Road,
Chennai - 600 028.
2. The District Registrar (Administration),
District Registrar Office,
Rajaji Street, JCK Nagar,
Chengalpattu - 603 001.
3. The Sub-Registrar,
Sunkuvarchattiram Sub-Registrar Office,
Sunguvarchattiram,
Kancheepuram District.

+1cc to Mr.Natarajan, Advocate sr.100984
+1cc to Government Pleader SR.NO. 101669

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nr 06/03/2020

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