



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2019

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.15799 of 2019andW.M.P. (MD) Nos.12544 and 12545 of 2019

Vairam @ Veerapathiran

... Petitioner

-Vs-

1.The District Registrar (Administration),
Trichy District, Trichy.

2.The Sub Registrar,
Thiruvaranguruchi & Post,
Trichy District.

3.The Tahsildar,
Manaparai Taluk,
Marungapuri,
Trichy District.

4.Alagappan

5.Kala @ Kala Devi

6.Anbarasan

7.Mohammed Ismail

... Respondents

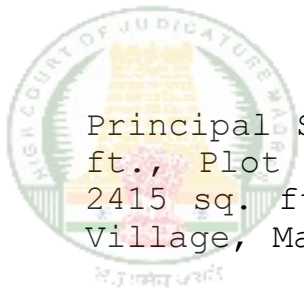
Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Mandamus, forbearing the 2nd and 3rd respondents from entertaining any further registration of sale deed or other encumbrances with respect to the petition schedule properties in E.P.No.211/2015 in O.S.No.501/2014, Principal Sub Court, Trichy shown as Plot No.23, measuring 2100 sq. ft., Plot No.24, measuring 2100 sq. ft. and Plot No.25 measuring 2415 sq. ft. comprised in Survey field No.214/1A of Thuvarangurichi Village, Marungapuri Taluk, Trichy District.

For Petitioner : Mr.C.Dhanaseelan

For Respondents : Mr.M.Murugan, G.A. For RR1 to 3

ORDER

The prayer in this writ petition is for a Writ of Mandamus, forbearing the 2nd and 3rd respondents from entertaining any further registration of sale deed or other encumbrances with respect to the petition schedule properties in E.P.No.211/2015 in O.S.No.501/2014,



Principal Sub Court, Trichy shown as Plot No.23, measuring 2100 sq. ft., Plot No.24, measuring 2100 sq. ft. and Plot No.25 measuring 2415 sq. ft. comprised in Survey field No.214/1A of Thuvarangurichi Village, Marungapuri Taluk, Trichy District.

2. Heard Mr.C.Dhanaseelan, learned counsel appearing for the petitioner and Mr.M.Murugan, learned Government Advocate appearing for the respondents 1 to 3.

3. According to the learned counsel appearing for the petitioner, in respect of the immovable properties claimed to have been belonged to the petitioner, petitioner initially executed a power in favour of the 4th respondent and two others sometime in the year 2010 and thereafter, in the year 2011, he claimed that, the petitioner revoked the power. Both the execution of the power and revocation of the power was registered. Despite the revocation of power, the 4th respondent was continued in his onslaught and indiscriminately, he, claimed to have, created encumbrance over the properties belongs to the petitioner and one such instance, under which, the 4th respondent clandestinely seems to have created third party right by involving the 5th respondent, who is none other than the daughter of the 4th respondent and in this regard, it is the further case of the petitioner, as projected by the learned counsel appearing for the petitioner that, a suit was also filed by the 5th respondent for specific performance, where, the 4th respondent has been shown as the power of attorney agent of the petitioner and without the knowledge of the petitioner, the suit was decreed, which, according to the learned counsel appearing for the petitioner, is a collusive suit and pursuant to the said decree obtained by the 5th respondent, E.P was filed in the execution Court in E.P.No.211 of 2015 in O.S.No.501 of 2016 before the Principal Sub Judge, Trichy and these issues had come to the notice of the petitioner only later on and therefore, in the said E.P., the petitioner filed execution application under Section 47 of the Code of Civil Procedure, where, certain prayers had been sought for.

4. It is the further case of the petitioner, as projected by the learned counsel appearing for the petitioner that, despite these efforts having been taken by the petitioner, the 4th and 5th respondents, colluding with each other, going on creating third party rights on the properties of the petitioner on the strength of the power, which was cancelled as early as in the year 2011 and by thus, creating third party right involving the 6th and 7th respondents also. Therefore, in that circumstances, in order to curtail the private respondents, especially, the 4th and 5th respondents from further encumbering or alienating the petitioner's property on the strength of the alleged power said to have been executed by the petitioner, the petitioner has already approached the registering department i.e., the official respondents herein not to register any document or instrument creating a third party right in respect of the properties belongs to the petitioner without the knowledge of the petitioner. Though such efforts having been taken



by the petitioner, it seems to have been not responded properly by the official respondents, hence, the petitioner is before this Court.

5. The said case as projected by the learned counsel appearing for the petitioner on behalf of the petitioner is purely a civil dispute as there has been dispute between the petitioner and the private respondents in respect of the execution of power, revocation of power, where, suit was filed, which was claimed to be a collusive and in the suit, right or wrong, there has been a decree and subsequently, E.P. has been filed, where Section 47 application by way of E.A. was filed by the petitioner and those proceedings are pending before the competent civil Court. Therefore, if at all, the petitioner has to get any remedy to restrain the private respondents from encumbering the properties belongs to the petitioner, the remedy open to the petitioner is to approach the concerned civil Court, where already proceedings are pending, by filing appropriate application to seek for whatever remedy he wants to get it. Instead, the petitioner has chosen to approach this Court by filing the present writ petition invoking the extraordinary jurisdiction of this Court under Article 226 of Constitution of India, which, in the considered opinion of this Court, cannot be entertained by this Court, as the issue raised herein is purely a civil dispute, which can be resolved between the parties only before the competent Civil Court.

6. In that view of the matter, this writ petition fails and the same is dismissed accordingly. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Registrar (Administration),
Trichy District, Trichy.

2. The Sub Registrar,
Thiruvaranguruchi & Post,
Trichy District.



3.The Tahsildar,
Manaparai Taluk,
Marungapuri,
Trichy District.

+1cc to Mr.C.DHANASEELAN, Advocate, SR.No. 75598
+1cc to M/s.Special Government Pleader,SR.No. 75684

Order made in
W.P. (MD) No.15799 of 2019
and
W.M.P. (MD) Nos.12544 and 12545 of 2019

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