



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.10.2019**

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

WEB COPY

W.P.(MD)No.19600 of 2019
and
W.M.P.(MD)No.16061 of 2019

M.Maniam

... Petitioner

/Vs./

1. The Sub-Registrar,
Palani Registration District, Keeranur.

2. The Sub-Collector, Palani.

3. The District Registrar (Administration) Palani,
Office of Combined Registration District,
2nd Floor, Palani.

... Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent vide proceedings in Na.Ka.No.1098/2018/A5 dated 19.02.2018 and consequential notice of the 1st respondent dated 27.03.2019 quash the same and direct the 1st respondent to register the pending document P11/2018.

For Petitioner	: Mr.C.S.Krishnamoorthy for M/s.S.Nedumaran
For Respondents	: Mr.M.Murugan Government Advocate

ORDER

Mr.C.S.Krishnamoorthy, learned counsel on behalf of writ petitioner and Mr.M.Murugan, learned Government Advocate on behalf of all the respondents are before this Court.

2. With consent of learned counsel on both sides, main Writ Petition is taken up, heard out and is being disposed of.

3. A 'sale deed dated 14.02.2018' (hereinafter referred to as 'said sale deed' for the sake of brevity) has been presented in the office of the first respondent. This Court is informed that the first respondent is the jurisdictional Sub-Registrar qua property which is subject matter of said sale deed. In the said sale deed,



writ petitioner is the vendee or in other words writ petitioner is the purchaser.

4. Registration of said sale deed ran into rough weather owing to a 'communication dated 19.02.2018 bearing reference Na.Ka.No.1098/2018/A5' being a communication from the second respondent to the first respondent (hereinafter referred to as 'first impugned order' for the sake of brevity, clarity and convenience). Vide first impugned order, second respondent has held that certain proceedings are intended to be initiated against writ petitioner's vendor Company under தமிழ்நாடு நிலச் சீர்திருத்தச் சட்டம், 1961 (நில உச்சவரம்பினை அறுதியிடுதல்) (Amendment Act 1970 (17/70) (hereinafter referred to as 'Ceiling Act' for the sake of brevity) and on this ground second respondent has directed first respondent to not to register conveyance documents pertaining to land which is subject matter of said sale deed.

5. Pursuant to the first impugned order, the first respondent namely the jurisdictional Sub-Registrar, passed an order dated 27.03.2019 captioned 'இறுதி அறிவிப்பு' stating that said sale deed which has been kept as pending document in Document No.P11/2018 cannot be registered and that the same can be taken back by the parties concerned namely, vendee, the writ petitioner and writ petitioner's vendor. This order of the first respondent shall hereinafter be referred to as 'second impugned order' for the sake of brevity, clarity and convenience.

6. Instant writ petition has been filed assailing the first and second impugned orders primarily on the ground that it is beyond the jurisdiction of the first respondent to make the second impugned order. This plea is also predicated on the ground that the second respondent cannot direct the first respondent to not to register a document on the ground which has been set out in the first impugned order. To support this sheet anchor submission, learned counsel for writ petitioner pressed into service a judgment / order of this Court dated 08.11.2006 in the case of *Pandurangan vs. Sub-Registrar, Reddiarpalayam, Pondicherry and Others* reported in **(2006) 4 MLJ 1440** and passed by Hon'ble Mr.Justice V.Ramasubramanian as a Hon'ble Single Judge of this Court (as his Lordship then was). Most relevant paragraphs in Pandurangan's case are paragraphs 18 and 25, which read as follows:

18.When the power of Registering Officer himself is so circumscribed by the provisions of the Act, it is not open to the third respondent to issue an instruction to respondents 1 and 2 to withhold the registration of any transaction, as he has no Appellate, Supervisory or Revisional powers over the Registering Officer, under the Act.



25. Applying the theory of "occupied field", the Division Bench of this Court in the decision reported in *S. Arunachalam and Others v. State of Tamil Nadu (supra)* set aside a Government Order, directing the Registration Department not to register the documents relating to sale of certain house-sites, in respect of which an opportunity for objection is given to the Panchayats, Town Panchayats, Municipalities and Corporations.'

7. Learned counsel for writ petitioner submits, on instructions, that there has been no further proceedings under Ceiling Act against writ petitioner's vendor though impugned orders are predicated on the ground that proceedings under Ceiling Act against writ petitioner's vendor is in the anvil.

8. It is also submitted by learned counsel for writ petitioner on a demurer, ie., without prejudice to the rights and contentions of the writ petitioner, that the respondents do not have such rights to stall registration and in any event, the basis for the impugned orders also cease to exist as there has been no proceedings under the Ceiling Act post impugned orders.

9. A perusal of the counter affidavit filed by the first respondent reveals that it has merely reiterated the first impugned order and submitted that registration was refused owing to the first impugned order.

10. One aspect of the matter which is considered in the view of this Court is of relevance is Section 22-A of the 'Registration Act, 1908' (hereinafter referred to as 'said Act' for the sake of brevity) which came into force on / with effect from 20.10.2016. Therefore, Section 22-A of said Act came into force post Pandurangan's case.

11. A perusal of Section 22-A of said Act and principle laid down in Pandurangan's case reveal that there is no overlap or in other words, the powers to refuse registration as contained in Section 22-A do not impact factual matrix of this case. To put it differently, the factual matrix of this case is such that it is outside the ambit of Section 22-A of said Act and it is supported by Pandurangan's principle.

12. In this view of the matter, following Pandurangan's principle, both the impugned orders, namely, communication dated 19.02.2018 bearing reference Na.Ka.No.1098/2018/A5 and order dated



27.03.2019 captioned 'இறுதி அறிவிப்பு' are set aside. Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

WEB COPY

// True Copy //

Sd/-

Assistant Registrar (CO)

Sub Assistant Registrar (CS)

To

1. The Sub-Registrar,
Palani Registration District, Keeranur.
2. The Sub-Collector, Palani.
3. The District Registrar (Administration) Palani,
Office of Combined Registration District,
2nd Floor, Palani.

+1 CC to Mr.S.NEDUMARAN, Advocate (SR-92178[F] dated 16/10/2019)

+1 CC to SPL GP (SR-92505[F] dated 17/10/2019)

Order made in
W.P.(MD)No.19600 of 2019
Dated:16.10.2019

sm

MK (24.10.2019) 4P 6C