



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.10.2019**

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P(MD)No.22349 of 2019

WEB COPY

S.Rajendran

... Petitioner

Vs.

1. The Inspector General of Registration,
Santhome, Chennai-8.
2. The District Registrar,
Office of the Registrar, Ramanathapuram.
3. The Sub-Registrar,
Office of the Sub-Registrar,
Keelakarai, Ramnad District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the first respondent to dispose of the petitioner's appeal dated 05.04.2019 as against the order passed by the second respondent in his proceedings Na.Ka.No.3713/Aa1/2018, dated 12.11.2018 within a time lime as fixed by this Court.

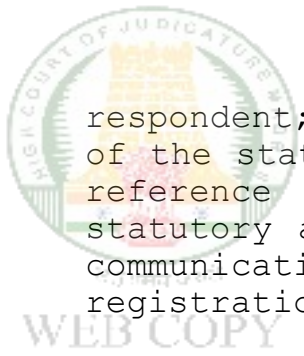
For Petitioner : Ms.M.D.Devi Saravana Priya
For Respondents : Mr.M.Murugan
Government Advocate

ORDER

Ms.M.D.Devi Saravana Priya, learned Counsel on record for writ petitioner and Mr.M.Murugan, learned Government Advocate, who accepts notice for all three respondents (official respondents) are before this Court.

2. With consent of learned Counsel on both sides ie., learned Counsel for writ petitioner and learned State Counsel, main writ petition is taken up, heard out and is being disposed of.

3. Short facts shorn of unnecessary details are that the writ petitioner presented a sale deed dated 18.08.2018 for registration in the office of the third respondent (jurisdictional Sub Registrar); that the third respondent passed an order dated 21.08.2018 refusing registration; that the order of the third respondent was carried in appeal by way of a statutory appeal under Section 72 of the 'Registration Act 1908' (hereinafter 'said Act' for brevity) to the jurisdictional appellate authority viz., second



respondent; that the second respondent appellate authority disposed of the statutory appeal by way of an order dated 12.11.2018 bearing reference Na.Ka.No.3713/Aa1/2018; that post disposal of the statutory appeal by the second respondent, writ petitioner sent a communication dated 05.04.2019 to the first respondent seeking registration.

4. Describing and referring to aforesaid communication dated 05.04.2019 from the writ petitioner to the first respondent as an 'appeal', instant writ petition has been filed with a prayer to mandamus the first respondent to dispose of what according to writ petitioner is an appeal within a time frame to be fixed by this Court.

5. Learned State Counsel, who accepts notice on behalf of all the three respondents submits that against the aforementioned order made by the second respondent in exercise of his appellate powers under Section 72 of the said Act, only a suit will lie to the jurisdictional Subordinate Court under Section 77 of the said Act.

6. Therefore there are two impediments for writ petitioner. One is that the communication dated 05.04.2019 is not an appeal which is the basis on which instant writ petition is projected. The other impediment is statutory appeal to the second respondent has been disposed of against which a statutory remedy under the said Act by way of a suit in the jurisdictional civil Court under Section 77 of the said Act is available. This second impediment stands amplified as the matter turns heavily on facts. Owing to the first of the two impediments, it follows as a sequitur that the writ petitioner does not have a legal right to seek mandamus. Legal right is pre-requisite to seek mandamus as per the law laid down by Honourable Supreme Court in the case of ***Praga Tools Corporation Vs. Imanuel and others*** [AIR 1969 SC 1306].

7. In the light of narrative thus far, instant writ petition is dismissed, albeit making it clear that it is open to the writ petitioner to file a suit under Section 77 of said Act in the jurisdictional civil Court raising all contentions available in law to the writ petitioner including the contentions raised in instant writ petition. There shall be no order as to costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Inspector General of Registration,
Santhome, Chennai-8.

2.The District Registrar,
Office of the Registrar, Ramanathapuram.

3.The Sub-Registrar,
Office of the Sub-Registrar,
Keelakarai, Ramnad District.

+1 CC to Mr.PT.S.NARENDRAVASAN, Advocate (SR-93557[F] dated
22/10/2019)

+1 CC to Spl.GP (SR-94066[F] dated 23/10/2019)

W.P(MD)No.22349 of 2019
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