



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.11.2019**

CORAM:

THE HONOURABLE **MR. JUSTICE M. SUNDAR**

W.P(MD)No.24392 of 2019

and

W.M.P(MD)No.21017 of 2019

K.Chandrasekar

... Petitioner

/Vs./

1.The Sub-Registrar,
Theppakulam Sub-Registrar Office,
at Rajakambeeram, Madurai.

2.M.Sureshkumar

3.Pannerukaivel,
Sub-Registrar,
Theppakulam Sub-Registrar Office,
at Rajakambeeram,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to impugned order dated 13.11.2019 of the 1st respondent in Na.Ka.No.87/2019 and quash the same and consequently forbearing the 1st respondent from registering any document in respect of the property in S.No.20/2B1C in respect of Plot Nos.1,2,3,4,7B and 9 of "Joshniya Garden" situate at Kalikappan 1 Bit Village, Madurai East Taluk.

For Petitioner	: Mr.J.Anandkumar
For R-1 & R-2	: Mr.M.Murugan Government Advocate
For R-3	: Given up

ORDER

Fulcrum of this writ petition is a 'representation dated 06.08.2019 given by writ petitioner to the first respondent herein' (hereinafter referred to as 'said representation' for the sake of brevity). Complaining of inaction qua said representation, writ petitioner had earlier filed a writ petition in this Court being W.P.(MD)No.22957 of 2019, which came to be disposed of by this Court on 31.10.2019. Most relevant paragraphs in this 31.10.2019 order are paragraphs 5, 7 and 9, which read as follows:



5. The main writ petition turns on a very narrow compass, as it is one seeking mandamus qua disposal of writ petitioner's representation given to the first respondent on 06.08.2019 vide Receipt No.4408/2019 wherein writ petitioner has requested not to entertain any documents for registration with regard to suit property qua civil suit being O.S.No.293 of 2018 pending on the file of District Judge's Court, Madurai. To be noted, this Court is informed that I.A.No.31 of 2019 was taken out by sole defendant in the said suit seeking rejection of plaint inter alia under Order VII Rule 11 of Code of Civil Procedure, 1908 (hereinafter 'CPC' for brevity). The said application for rejection of plaint was dismissed by civil Court on 07.08.2019. This Court is informed that a Civil Revision Petition has been preferred by the sole defendant against such dismissal in the said I.A.No.31 of 2019 vide C.R.P(MD)No.1776 of 2019 and that the same is now pending in this Court.

6.

7. Learned State counsel submitted that the first respondent is the authority who shall consider the aforementioned representation given to the first respondent on 06.08.2019 vide Receipt No.4408/2019 made by the writ petitioner (page No.60 of the typed set of papers forming part of the case file).

8.

9. It is made clear that in the course of the representation being considered by the first respondent, if the rights of any other third party / parties or any other third party entity / entities is / are likely to be affected, the first respondent shall put on notice and give reasonable opportunity to such third party / parties or any other third party entity / entities, before disposing of the aforementioned writ petitioner's representation. Though obvious, it is made clear that this Court has not expressed any opinion or view on the merits of the matter. It is also made clear with specificity that second respondent has to be put on notice and given a reasonable opportunity by



the first respondent before taking a decision. The authority concerned shall not embark upon any exercise which is within the domain of civil Court jurisdiction.'

2. There is no dispute that certified copy of the aforementioned order dated 31.10.2019 made by this Court was made available only on 13.11.2019. On the same day, ie., 13.11.2019, first respondent vide order bearing reference, Na.Ka.87/2019 disposed of said representation saying that the plea of the writ petitioner cannot be entertained in absence of interim orders from civil Court. This order of first respondent dated 13.11.2019 bearing reference Na.Ka.87/2019 shall hereinafter be referred to 'impugned order' for the sake of brevity, clarity and convenience.

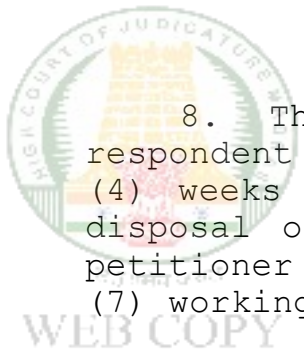
3. Notwithstanding very many averments made in the writ affidavit, notwithstanding very many grounds urged / contentions canvassed in the hearing, matter now turns on one pivotal point and that one pivotal point is paragraph No.9 of the earlier proceedings which has been extracted and reproduced supra.

4. Learned counsel for writ petitioner submits that this Court has made it clear that the first respondent should put on notice and give an opportunity to all concerned before disposal of said representation, but the said representation has been disposed of instantaneously without adhering to this directive contained in paragraph No.9 of the 'order dated 31.10.2019 in W.P.(MD)No.22957 of 2019' (hereinafter referred to as 'said order' for brevity).

5. Faced with the above situation, learned State counsel fairly submits that first respondent has passed the impugned order without following the aforesaid directive of this Court in Paragraph No.9 of the said order. Saying so, learned State counsel submits that first respondent will now redo the exercise strictly adhering to the directive of this Court in Paragraph No.9 of the said order. This is recorded.

6. To be noted, in the light of the narrative thus far, learned counsel for writ petitioner has given up the third respondent.

7. Impugned order in instant writ petition being order dated 13.11.2019 bearing reference Na.Ka.No.87/2019 is set aside without expressing any opinion on the merits of the matter. First respondent is directed to take up said representation ie., writ petitioner's representation dated 06.08.2019 and dispose of the same afresh strictly in accordance with the directive adumbrated in paragraph No.9 of the earlier order dated 31.10.2019 in W.P.(MD) No.22957 of 2019 as well as other directives contained in said order.



8. The aforesaid exercise shall be completed by first respondent as expeditiously as possible and in any event within four (4) weeks from the date of receipt of a copy of this order and disposal order shall be communicated by first respondent to writ petitioner and all concerned under due acknowledgement within seven (7) working days from the date of disposal.

9. Instant Writ petition is disposed of with above directives. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

sm

To

The Sub-Registrar,
Theppakulam Sub-Registrar Office,
at Rajakambeeram,
Madurai.

+1 CC to M/s.J.ANANDKUMAR, Advocate (SR-100425[F] dated 22/11/2019)

+1 CC to M/s.SPL GP (SR-101140[F] dated 25/11/2019)

Order made in
W.P(MD)No.24392 of 2019

Dated:
21.11.2019

KG(CO)
TR(11.12.2019)4P C