

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.No.441 of 2020

G. Sivaraman

.. Appellant

-vs-

The Sub Registrar,
Valavanur,
Villupuram District

... Respondent

Appeal filed under Clause 15 of the Letters Patent against the order dated 02.12.2019 passed in W.P.No.33668 of 2019 on the file of this Court filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent in respect of (Thanikai Kuripurai) in TP/75718274/2019 dated Nil, quash the same and thereby direct the respondent to receive and register the sale deed dated 06.9.2019 executed in favour of the petitioner in respect of the property situated at Valavanur Village, Villupuram Taluk in S.No.290/3 out of 0.76.5 ares, 0.19.0 ares undivided half share therein and on registration of the same, direct the respondent to release the same forthwith to the petitioner.

For Appellant : Mr.N. Suresh

For Respondent : Mr.T.M. Pappiah
Spl. Govt.Pleader

JUDGMENT
(Delivered by The Hon'ble Chief Justice)

We have heard learned counsel for the appellant and learned Special Government Pleader for the State.

2.The contention raised by the learned counsel is that the document which has been presented for registration by the appellant is only for the undivided half share of the property, which his vendors were legally entitled to part with and

therefore, the objection taken by the Sub-Registrar not to entertain the document for registration is erroneous in law. Learned counsel further submits that the learned Single Judge has not taken into consideration the fact that such a document can be registered and if any party is aggrieved, the party can have recourse to such remedies as are available after the registration is carried out.

3.Learned counsel for the State objects to this and urges that registration per se is not permissible on mere presentation and the contents require verification for which, appropriate enquiry can be made by the Sub-Registrar. In the present case, an objection was filed claiming co-ownership over the land and therefore, the Sub-Registrar was justified in not proceeding with the matter.

4.Having considered the submissions raised, we find that the objectors who had filed the protest petition were not made parties before the learned Single Judge and they are not even represented before us. Therefore, issuing any final declaration as sought for by the appellant, may not be appropriate, keeping in view the provisions of the Registration Act itself, where the Sub-Registrar can proceed to pass an appropriate order, for which the learned Single Judge, in our opinion, has rightly issued directions to consider the objections whatever that have been filed in this respect.

5.We, however, find that the learned counsel for the appellant is correct in his submission that registration can be denied only on the grounds that are set out in the Registration Act, 1908 itself and not beyond the same. The Sub-Registrar cannot enter into the issue of any discussion or decision of the title of the parties, which can only be done before the appropriate forum. The appellant also having purchased the undivided share cannot enter into possession so as to disturb the rights of the parties, unless he seeks a partition of the undivided share, provided the document on the basis whereof the right is being claimed is found to be valid.

6.Accordingly, in view of the law laid down by the Apex Court in Satya Pal Anand vs. State of Madhya Pradesh, (2016) 10 SCC 767, paras 40 and 41, we dispose of this appeal with the observation that the Sub-Registrar shall pass an order not later than 3 months from today in view of the directions already issued by the learned Single Judge and also keeping in view the provisions of the Registration Act as well as the legal position as referred to by the Apex Court in the decision of Satya Pal Anand (supra).

The Writ Appeal is disposed of with the said observations.
No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

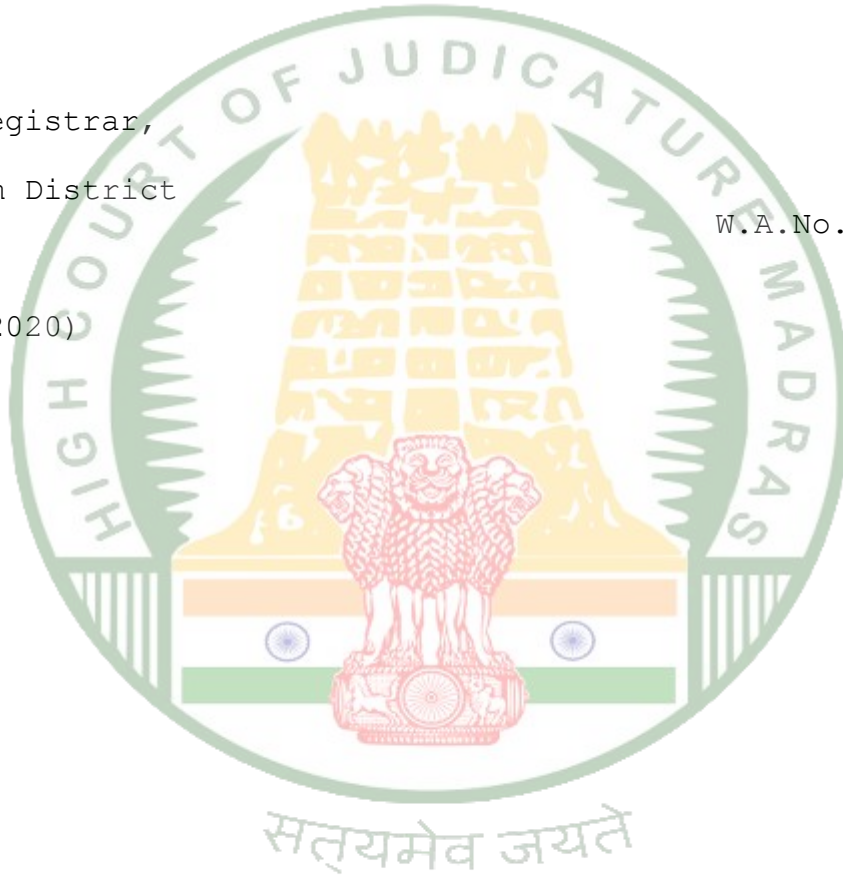
sra

To

The Sub Registrar,
Valavanur,
Villupuram District

W.A.No.441 of 2020

PVS (CO)
GN(21/07/2020)



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