

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.10915 of 2020
and W.M.P.No.13253 of 2020

J.Rajasekar,
S/o.P.Jayaraman,
No.32,Paneerselvam Street,
Othakkalmandapam,
Coimbatore District.

...Petitioner

vs.

1. The State of Tamil Nadu,
Rep. by Secretary to Government,
Registration Department,
Fort St.George,
Chennai - 600 009.
2. The Inspector General of Registration,
Santhome High Road,
Mylapore, Chennai - 4.
3. The Sub-Registrar,
Kinathukadavu,
Coimbatore.
4. K.Srinivasan,
S/o.Krishnan Samy,
C.1999, Swamy chitha Salai,
Jothi Nagar, Pollachi Ton,
Coimbatore.
5. S.Palanisamy,
No.27, Masanaicken Pudur,
Nallathipalayam,
Kinathukadavu Taluk,
Coimbatore District.
6. P.Sathasivan,
No.27, Masanaicken Pudur,
Nallathipalayam,
Kinathukadavu Taluk,
Coimbatore District.

7. P.Nanjudasamy,
No.27, Masanaicken Pudur,
Nallathipalayam,
Kinathukadavu Taluk,
Coimbatore District.
8. P.Kamalakannan,
No.27, Masanaicken Pudur,
Nallathipalayam,
Kinathukadavu Taluk,
Coimbatore District.
9. S.Thangaraj,
S/o.Subbe Gounder
No.1, Masanaicken Pudur,
Nallathipalayam Village
Kinathukadavu Taluk, Coimbatore District.
10. T.Sureshkumar
S/o.Thangaraj,
No.27, Masanaicken Pudur,
Nallathipalayam Village
Kinathukadavu Taluk,
Coimbatore District.
11. G.Dhanalakshmi,
D/o.S.Thangaraj
No.27-C, Masanaicken Pudur,
Nallathipalayam Village
Kinathukadavu Taluk,
Coimbatore District.
12. S.Ramakrishnan
S/o.C.Srinivasan,
No.3/132, V.K.V.Nagar,
Asokapuram, Coimbatore.
13. The Royal Lands & Nest
Co-operative Housing Society,
Rep. by Director,
AP 873, D.No.11, 2nd Road,
H-Block, 12th Main Road,
West Anna Nagar,
Chennai 600 040.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the respondents 2 and 3 from registering the Sale Deed dated 19.08.2013 in Doc.No.P20130023 at S.R.O

Kinnathukkadavu and release the same to the respondents 4 to 13 or to their men, agents or any one claiming under them, as it violates the rules and regulations formulated under the Registration Act, 1908.

For Petitioner : Mr.C.Umashanker

For Respondents: Mr.K.Parameshwaran for R1

O R D E R

This writ petition has been filed for an issue of writ of mandamus forbearing the respondents 2 and 3 from registering the sale deed and releasing the same in favour of respondents 4 to 13.

2. It is seen from the records that this Court has passed an order dated 20.07.2020 in W.P.No.13195 of 2018 and the said order is extracted hereunder.

"The learned counsel for the petitioner and the learned counsel appearing on behalf of respondents 4 to 11 brought to the notice of this court paragraph 8 of the counter affidavit filed by the respondents and the same is extracted hereunder:

"8.The respondents further submit that there was an amicable settlement arrived between the respondents 4 to 10 and the writ petitioner. Accordingly, the writ petitioner and the respondents have come to the amicable solution as such instead of realising the cheque for Rs.3,27,57,000/- now they have decided to share the lands or its sale proceeds in the ratio 70:30 i.e 70% for the respondents and 30% for the writ petitioner. Thus the dispute between the writ petitioner and the respondents 4 to 10 came to an end. The respondents further submit that they have no objection to grant relief as prayed by the writ petitioner, therefore, the respondents pray that this Hon'ble Court may be pleased to record the affidavit of the respondents and pass necessary orders."

2. In view of the above development and in view of the fact that the matter has been amicably resolved among the parties, paragraph 8 of the counter affidavit is recorded and the third respondent is directed to register and release the document.

3. This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed."

3. While passing the above order, this Court has not gone into the merits of the case and this Court clearly recorded the stand taken in paragraph 8 of the counter affidavit and passed consequential order.

4. The petitioner has already filed a suit in O.S.No.93 of 2020 and the same is pending on the file of the District Munsif, Pollachi. The apprehension of the petitioner is that if the sale deed is registered and the document is released, it will have an adverse impact on the right of the petitioner who has already purchased the property in the year 2018.

5. In the considered view of this Court, the order referred supra was not an order passed on merits and this Court clearly recorded the stand taken by the respondent in the counter affidavit and disposed of the writ petition. The very execution of the sale deed or the registration of the same, does not by itself establish the right or the title over the property and it is something to be established in the pending suit in O.S.No.93 of 2020. Therefore the petitioner need not have the apprehension that the order passed by this Court or the registration of the sale deed will have any impact on the right or title over the property. The petitioner will have to independently prove his right and title over the property and the Civil Court will independently consider the same without being influenced by the order passed by this Court in W.P.No.13195 of 2018 and the consequential registration of the document by the concerned Sub-Registrar. If this assurance is given to the petitioner, the petitioner cannot have any other grievance and he can very well establish the right and title over the property before the concerned Court in which the Civil Suit is pending.

6. Expect giving this clarity, no further orders can be passed in this writ petition. This writ petition is disposed of accordingly. No cost.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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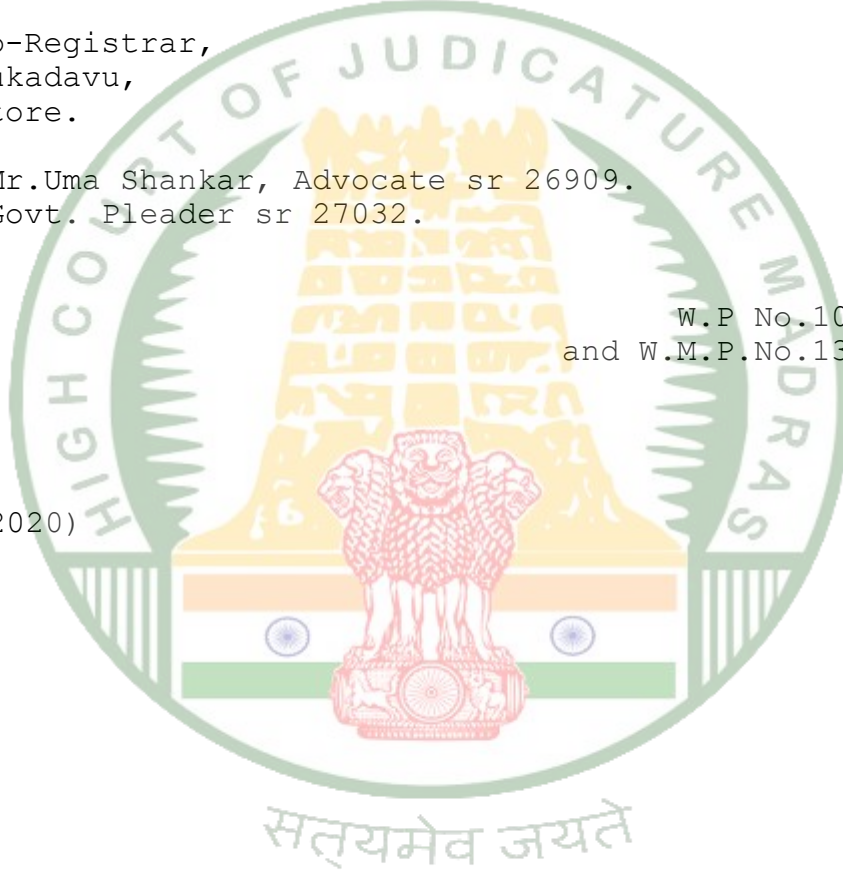
To

1. The State of Tamil Nadu,
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+1 CC to Mr.Uma Shankar, Advocate sr 26909.
+1 CC to Govt. Pleader sr 27032.

W.P No.10915 of 2020
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VGII (CO)
SP (31/08/2020)



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