

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2020

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.P.No.17253 of 2020

Ruththamary

... Petitioner

Vs.

- 1.The District Registrar,
Salem, Salem District.
- 2.The Sub Registrar,
Omalur, Salem District.
- 3.Lurdhumery,
- 4.Periyanayagam

... Respondents

Prayer: Writ Petition filed under Section 226 of Constitution of India praying for issuance of Writ of Mandamus to call for the records relating to order passed by the 2nd respondent in proceeding in Refusal Number RFL/Omalur/20/2020 dated 20.10.2020 and quash the same and consequently direct the 2nd respondent to register the sale deed submitted by the petitioner on 20.10.2020

For Petitioner :Mr. M.Elango

For Respondents:Mr.T.M.Pappiah,Spl.Govt.Pleader-R1 &R2

O R D E R

On consent given by either side, the main Writ Petition itself is taken up for final hearing.

2. This Writ Petition has been filed challenging the refusal check slip issued by the 2nd respondent dated 20.10.2020, wherein, the 2nd respondent has refused to register the Sale Deed submitted by the petitioner on 20.10.2020.

3. Heard Mr.M.Elango, learned counsel for the petitioner and Mr.T.M.Pappiah, learned Special Govt. Pleader appearing for the respondents 1 and 2.

4. The case of the petitioner is that he is the owner of the subject property and he wanted to sell the property and hence

he executed a sale deed on 20.10.2020 in favour of one Perumal. When this sale deed was presented for registration before the 2nd respondent, the same was refused to be registered on the ground that a civil suit is pending in O.S.No.176 of 2020. Aggrieved by the same, the present Writ petition has been filed before this Court.

5. it is seen from records that the civil suit has been filed by the 3rd and 4th respondents seeking for the relief of partition and separate possession of 1/4th share each in the subject property.

6. The pendency of the suit by itself cannot be a ground for the 2nd respondent to refuse to register the document presented by the petitioner, if it is otherwise in order. Even if the property is sold during the pendency of the suit, it will always be hit by lis pendens and therefore dealing with the property during the pendency of the suit cannot be held to be totally barred. Therefore, the ground on which the 2nd respondent has refused the registration of the sale deed, is unsustainable in the eye of law.

7. In view of the above, the impugned check slip issued by the 2nd respondent dated 20.10.2020 is hereby quashed. There shall be a direction to the 2nd respondent to entertain the document presented for registration by the petitioner, if it is otherwise in order and the necessary stamp duty and registration fees is paid. The document shall also be released after the same is registered. It is made very clear that the registration of the sale deed will not in any way take away the rights of the 3rd and 4th respondents who have initiated the suit in O.S.No.176 of 2020 and the rights of the purchaser will be subject to the final result in the pending suit. It is also further made clear that the trial court will have to decide the suit on its own merits without being influenced by the orders passed by this Court in this Writ petition.

8. This Writ Petition is accordingly allowed. No costs.

Sd/-
Assistant Registrar
WEB COPY
//True Copy//

Sub Assistant Registrar

msr

To

1. The District Registrar,
Salem, Salem District.

2. The Sub Registrar,
omalur, Salem District.

+1 cc to The Government Pleader, Sr.No. 39821

+1 cc to Mr.M.Elango, Advocate Sr.No. 39396

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SRA (CO)

RMP (19/01/2021)



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