

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.12.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.17478 of 2020
and WMP. No.21664 of 2020

S.Thangavel

... Petitioners

Vs.

1. The Sub Registrar,
Office of the Sub Registrar,
Udumalpet.

2. Minor Hari Varna
Rep. By his Next friend Guardian
Mother K.Selvi,
No.5/134B, Royal Lakshmi Nagar,
Ramasamy Nagar,
Udumalpet.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the first respondent to register the settlement deed dated 20.09.2018 pending in document No.100/2018 presented on 24.09.2018 within the time frame fixed by this Hon'ble Court by considering the petitioner's representation dated 20.08.2020.

For Petitioners: Mr. D.R.Arun Kumar

For Respondents: Mr.T.M.Pappiah - R1
Special Government Pleader

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the first respondent to register the settlement deed dated 20.09.2018, which was presented for registration on 24.09.2018 which is kept as a pending document in Document No.100/2018.

2. Heard Mr.D.R.Arun Kumar, learned counsel for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader appearing on behalf of the first respondent.

3. It is seen from records that there is a suit pending in O.S.No.362 of 2018 on the file of the District Court, Tiruppur. In the said suit, the subject property in the writ petition also forms part of the schedule of property. The competent Court has granted an order of interim injunction in I.A.No.253 of 2018 by an order dated 24.08.2018, wherein the defendants/respondents are restrained from alienating the schedule property pending disposal of the suit. The petitioner is the first defendant in the said suit. In view of the same, the respondent has refused to register the document by quoting the order of injunction granted by the Civil Court. Aggrieved by the same, the present writ petition has been filed before this Court seeking for appropriate directions.

4. The learned counsel for the petitioner submitted that the document was executed in favour of the petitioner even before the injunction order was granted by the Civil Court and therefore, the first respondent cannot keep the document as a pending document.

5. In the considered view of this Court, the order of interim injunction is operative on and from 24.09.2018. The first respondent cannot disregard this order and proceed further with the registration and the first respondent was perfectly right in not registering the document in obedience to the order passed by the competent Civil Court. The issue as to whether the document was executed even before the order of interim injunction was passed, is not an issue into which the first respondent can conduct an enquiry. The petitioner will have to take necessary steps to get the order of interim injunction vacated or modified and thereafter, approach the first respondent to get the document registered. Without such an order, the first respondent cannot effect any registration.

6. When this Court issues a Writ of Mandamus, a direction cannot be given to an authority to perform an act, which will indirectly be in total disregard to the order passed by a competent Court. Such directions will set a very bad precedent and even this Court will have to respect an order passed by a competent Court and this Court cannot completely disregard it, while exercising its jurisdiction under Article 226 of Constitution of India. The petitioner is given liberty to work out his remedy before the competent Civil Court and get necessary directions and thereafter, the petitioner can approach the first respondent to get the document registered.

7. This Writ Petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rli

To

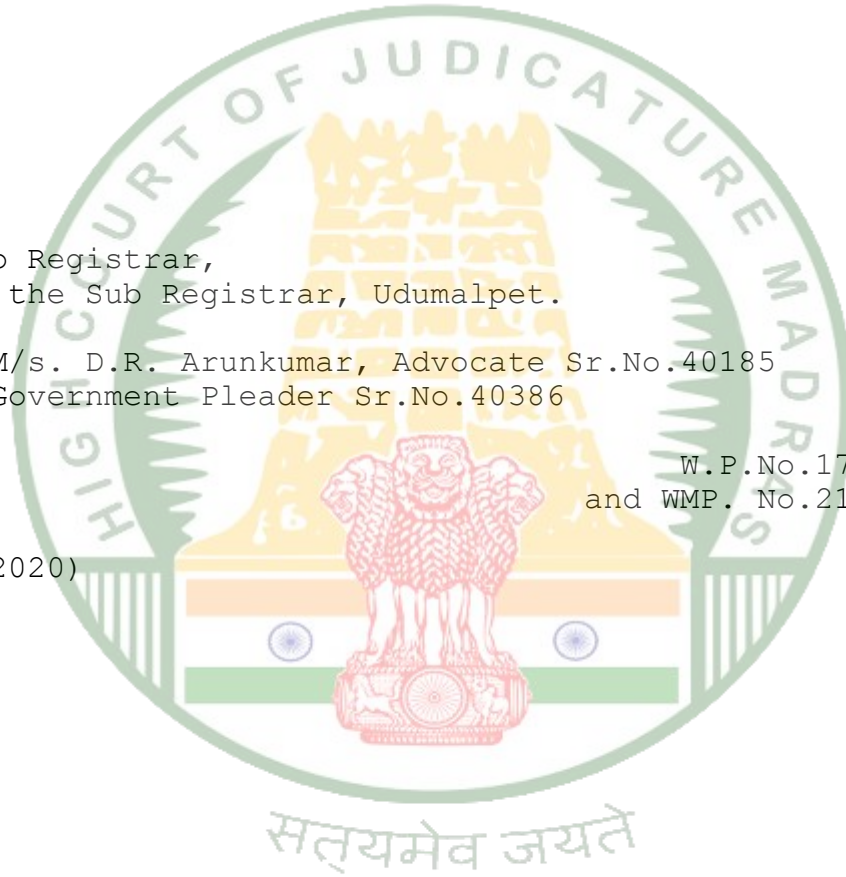
1. The Sub Registrar,
Office of the Sub Registrar, Udumalpet.

+1 cc to M/s. D.R. Arunkumar, Advocate Sr.No.40185

+1 cc to Government Pleader Sr.No.40386

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SR II(CO)
NS(28/12/2020)



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