

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2020

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.P.No.17352 of 2020 &
WMP.No.21487 of 2020

B.Hemanth

... Petitioner

Vs.

1. State of Tamil Nadu,
represented by Secretary
Revenue Department,
Fort St. George,
Secretariat, Chennai 600 009.
2. The District Collector, Tiruvallur District.
3. The Tahsildar,
Ponneri Taluk, Ponneri,
Tiruvallur District 601 204.
4. The Sub Registrar,
Ponneri, Tiruvallur District 601 204.
5. D. Brijesh ... Respondents

Prayer: Writ Petition filed under Section 226 of Constitution of India praying for issuance of Writ of Mandamus forbearing the respondents 1 to 4 from in any manner recording sale, registration, mutation of revenue records in respect of the property bearing survey No.272/1, New Survey No.272/32A and 272/32B comprised in four shops in Door No.361/3, Old no.286 at Bazaar Street, T.H. Road within the limits of Ponneri Sub Registration District, Minjur Village, Ponneri Taluk, Tiruvallur District of an extent of 1892 square feet pending the enquiry initiated by the 3rd respondent, without notice to the petitioner.

For Petitioner :Mr. Perumbulavil Radhakrishnan

For Respondents:Mr.Manigopi, Govt. Advocate R1 to R3
Mr.T.M.Pappiah, Spl. Govt. Pleader -R4

O R D E R

This writ petition has been filed for the issue of Writ of Mandamus forbearing the respondents 1 to 4 from in any manner

registering any documents or mutating the revenue records with respect to the subject property till the enquiry initiated by the 3rd respondent is concluded.

2. The case of the petitioner is that his family has been running a Pawn Shop in the subject property for a long period of time. The mother of the 5th respondent ultimately became the owner of the property. It is claimed by the petitioner that there was an oral sale agreement entered into by the mother of the 5th respondent and an advance amount has also been paid pursuant to the agreement.

3. The further case of the petitioner is that in total disregard to the oral agreement, a settlement deed was executed in favour of the 6th respondent on 18.10.2019.

4. The petitioner claims that he has already initiated civil proceedings before the District Court, Thiruvallur to enforce the oral agreement and in the meantime, hasty steps are being taken by the 5th respondent to create third party rights and also to mutate the revenue records. It is further stated that the 3rd respondent has already informed the 4th respondent that no document must be registered with regard to the subject property. Therefore, the petitioner has approached this Court to forbear the respondents from entertaining any documents for registration and from mutating the revenue records.

5. Heard Mr.Perumbulavil Radhakrishnan, learned counsel for appearing for the petitioner and Mr.Manigopi, learned Govt. Advocate appearing for respondents 1 to 3 and Mr.T.M.Pappiah, learned Special Govt. Pleader appearing for the 4th respondent.

6. In the considered view of this Court, the petitioner claims himself only to be an agreement holder by virtue of an oral agreement entered into with the mother of the 5th respondent. The petitioner has to establish the same before the competent Civil Court and enforce the so called oral agreement. The sale agreement by itself does not give any vested right in favour of the petitioner and a recent Division Bench Judgment of this Court in the case of N.Ramayee Vs. The State of Sub Registrar, Registration Department and others reported in 2020 2 Writ Law Reporter 770, after going through the entire law on the subject, has categorically held that a sale agreement by itself does not prevent the owner of the property to deal with the property. By stating the law to that effect, this Court had held that even where there is a registered agreement of sale, the concerned Sub Registrar cannot refuse to entertain documents on the ground that there is a registered agreement of sale reflecting in the encumbrance certificate.

7. In view of the above, the petitioner has to necessarily workout his remedy only before the competent Civil Court and the petitioner will not have any right to prevent the owner of the property from dealing with the property.

8. In view of the above discussion, this Court is not inclined to entertain this Writ Petition and accordingly the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
State of Tamil Nadu,
Revenue Department,
Fort St. George,
Secretariat, Chennai 600 009.
2. The District Collector,
Tiruvallur District.
3. The Tahsildar,
Ponneri Taluk, Ponneri,
Tiruvallur District 601 204.
4. The Sub Registrar,
Ponneri, Tiruvallur District 601 204.

+lcc to Mr.Perumbulavil Radhakrishnan, Advocate Sr.39048

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srg 19/01/2021