

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.3.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NO.32325 OF 2017 & WMP.NO.6530 OF 2020

1.Smt.Shanbagalakshmi Ammal
2.A.R.Sundara Murugan

...Petitioners

Vs

1.The Inspector General of Registration,
Santhome High Road, Chennai-4.

2.The Sub-Registrar, Thyagaraya
Nagar, Chennai-17.

3.Dr.S.Pramila

...Respondents

PETITION under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the 1st respondent herein to forthwith initiate enquiry against respondents 2 and 3 herein pursuant to the complaint dated 17.11.2017 of the petitioners and cancel the sale deed dated 04.8.2017 registered as document No.1983 of 2017 on the file of Sub Registrar, Thyagaraya Nagar and released on 07.8.2017.

For Petitioners : Mrs.AL.Gandhimathi

For Respondents 1 & 2 : Mr.P.P.Purushothaman, GA

For Respondent-3 : Mr.K.V.Anantha Krishnan

ORDER

I have heard Mrs.AL.Gandhimathi, learned counsel for the petitioners, Mr.P.P.Purushothaman, learned Government Advocate appearing for respondents 1 and 2 and Mr.K.V.Anantha Krishnan, learned counsel appearing for the third respondent.

2. The petitioners seek a direction to the first respondent to initiate enquiry against respondents 2 and 3 in respect of a sale deed dated 04.8.2017 registered as document No.1983 of 2017 on the file of the second respondent.

3. The case of the petitioners is that they filed a suit claiming preemptive right over the property in question by filing C.S.No.392 of 2017 on the file of this Court, in which, in O.A.No.537 of 2017, an order of interim injunction was granted by this Court on 25.5.2017. The petitioners further state that they had intimated to the second respondent about the order of interim injunction and also requested the second respondent not to accept any sale deed for registration. Yet, the second respondent accepted the sale deed for registration and he not only registered the document, but also released the same.

4. The learned counsel for the petitioners further state that there was a circular issued by the Inspector General of Registration empowering the respective District Registrars of the Registration Department to enquire into fraudulent transactions or unilateral transactions. However, the said circular was held to be without jurisdiction by a Division Bench of this Court. Consequently, the circular has been withdrawn. The learned counsel for the petitioners also submits that another circular was issued and that the first respondent has been empowered to enquire into the propriety of the transactions as well as the issue as to whether the Sub-Registrar was justified in accepting the document for registration.

5. In the considered view of this Court, neither the first respondent nor the second respondent can adjudicate into the question as to whether the vendors of the third respondent had any right to sell the property or whether the petitioners had a preemptive right of purchasing the property. The petitioners have rightly filed the said suit wherein they sought for appropriate relief. If, according to the petitioners, the sale in favour of the third respondent is illegal, it goes without saying that the doctrine of lis pendens can always be pleaded by the petitioners. At this juncture, the prayer sought for cannot be granted.

6. The learned counsel for the third respondent submits that the facts as projected by the petitioners are incorrect and that the sale deed was executed much prior to the order of interim injunction granted by this Court in the said civil suit.

7. In the considered view of this Court, this issue cannot be agitated in this writ petition and it is best left to be adjudicated in the pending civil litigation.

8. Accordingly, the writ petition is dismissed giving liberty to the petitioners to adjudicate all the issues in the pending suit and dismissal of this writ petition will, in no manner, prejudice the rights of the parties in the said suit. No costs. Consequently, the connected WMP is also dismissed.

Sd/-
Assistant Registrar (ADI-MDU)

//True Copy//

Sub Assistant Registrar

To

1.The Inspector General of Registration,
Santhome High Road, Chennai-4.

2.The Sub-Registrar,
Thyagaraya Nagar, Chennai-17.

+2cc to M/s.K.V.Anathakrushnan, Advocate SR.22279

+1cc to Mrs.AL.Ganthimathi, Advocate SR.22365

+1cc to the Government Pleader SR.22649

WP.No.32325 of 2017&
WMP.No.6530 of 2020

JP (CO)
CB(28/05/2020)

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