

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.01.2020
CORAM
THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU
W.P. No. 35645 of 2019

Gowsalya

... Petitioner

-vs-

1. The Inspector General of Registration,
Mylapore,
Chennai - 600 028.
2. The District Registrar,
Registration,
Villupuram.
3. The Sub-Registrar,
Vallam,
Villupuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Third Respondent, i.e., Sub-Registrar, Vallam, Gingee Taluk, Villupuram District to register the sale deed presented on 30.11.2019 by the Petitioner through online vide TP. No. 75944474/2019 for registration and return the original sale deed after complying all the formalities under the Registration Act, 1908.

For Petitioner : Mr. K. Balakrishnan
For Respondents: Mr. B. Kannan,
Government Advocate

O R D E R

The Petitioner is aggrieved by the refusal of the Respondents to register the document presented by her for registration in respect of the property which forms the subject-matter of pending suit in O.S. No. 174 of 2019 on the file of the Principal District Munsif Court, Gingee, in which she is not a party to that proceeding. It is, however, accepted that the said suit has been filed for partition claimed between the Vendors, who have sold that property to the Petitioner by sale-deed dated 24.05.2006 registered as Document No.616 of 2006 on

the file of the Office of the Sub-Registrar, Vallam. This would obviously mean that unless timely action is taken by the Petitioner for bringing to the notice of that Court about the transfer of property already made by the parties in that suit in her favour, any adverse decision therein would affect the rights of the Petitioner in that property and consequently, an innocent purchaser from the Petitioner would be exposed to the vagaries of further litigation and multiplicity of proceedings, which would have to be averted.

2. In this factual backdrop, reference may be made to Section 52 of the Transfer of Property Act, 1882, which reads as follows:-

"52. Transfer of property pending suit relating thereto:- During the pendency in any Court having authority within the limits of India, excluding the State of Jammu and Kashmir or established beyond such limits by the Central Government of any suit or proceedings which is not collusive and in which any right to immoveable property is directly and specifically in question, the property cannot be transferred or otherwise dealt with by any party to the suit or proceeding so as to affect the rights of any other party thereto under any decree or order which may be made therein, except under the authority of the Court and on such terms as it may impose."

On a perusal of the aforesaid legal provision, it is evident that when the suit in respect of which immovable property is directly and specifically in question, any party to that suit, who intends to transfer or otherwise deal with such property, has to obtain the prior permission of the Court where such suit is pending. As such, the Petitioner, who claims title to the property only through the parties to that suit, can make necessary applications before the Civil Court for impleading herself therein highlighting the collusion between them, and seek permission for her to transfer or deal with the property by disclosing the nature of proposed transaction with details of the transferees so that appropriate orders in that regard could be passed on those applications, and the registration of any document could be made after following the procedure prescribed in Section 52 of the Transfer of Property Act, 1882. Viewed from that perspective, there does not appear to be any infirmity in the impugned decision-making process followed by the Respondents warranting any interference by this Court in the exercise of discretionary process under Article 226 of the Constitution. Hence, it would not be possible to grant the relief as sought by the Petitioner in this Writ Petition.

3. In the result, the Writ Petition is dismissed with the aforesaid observations. Consequently, connected Miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

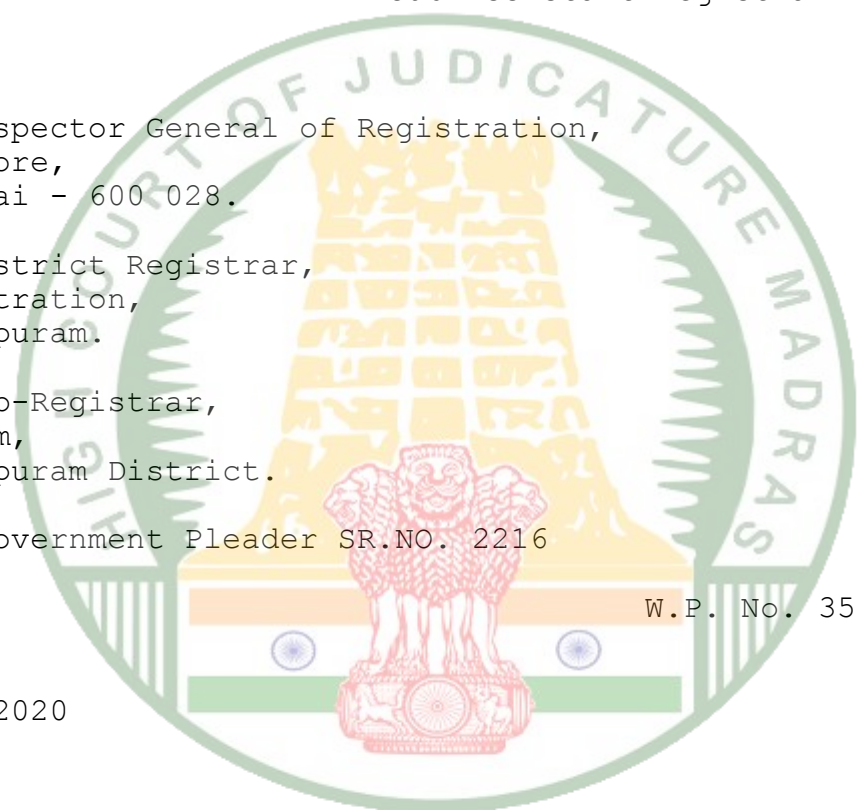
To

1. The Inspector General of Registration,
Mylapore,
Chennai - 600 028.
2. The District Registrar,
Registration,
Villupuram.
3. The Sub-Registrar,
Vallam,
Villupuram District.

+1cc to Government Pleader SR.NO. 2216

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