



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P.(MD)No. 8424 of 2011

and

M.P.(MD) No. 1 of 2011

S.Chandrasekara Raja

... Petitioner

Vs.

- 1.The Sub-Registrar,
Nanguneri Sub Registrar's Office,
Nanguneri,
Tirunelveli District.
- 2.The District Registrar,
Tirunelveli District Registrar Officer,
Tirunelveli - 627 001.
- 3.The Inspector General of Registration,
Inspector General of Registration Office,
120, Santhome High Road,
Chennai - 600 028.
- 4.Parvatham.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issue of Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 1st respondent Reg.Objec.Petn.No.27/2011 dated 14.07.2011 and quash the same as illegal and forbearing the respondents 1 to 3 from making any alienation and encumbrances with Survey Nos.702/1B1, 702/B2, 702/B3, 702/1B4, 702/6B2, 705/3A, 705/3B, 706/4B, 706/5, 706/6B, 708/1, 709/2, 709/3C, 715/5B, 716/1B, 718/1A, 718/1B, 718/1C, 718/3, 719/1B, 775/3A in Karanthaneri revenue Village in Nanguneri Taluk in Tirunelveli District, pending disposal of the Original Suit No.15/2007 on the file of the 1st Additional District Court, Tirunelveli.

For Petitioner : Mr. F.X.Eugene

For Respondents 1 to 3 : Mr. M.Murugan
Government Advocate.

For 4th Respondent : Mr.M.P.Senthil



O R D E R

Heard Mr. F.X. Eugene, Learned Counsel for the Petitioner, Mr. R. Murugan, Learned Government Advocate appearing for the First to Third Respondents and Mr. M.P. Senthil, Learned Counsel for the Fourth Respondent and perused the materials available on record apart from the pleadings of the parties.

2. According to the Petitioner, he had entered into an agreement of sale dated 14.08.2006 with the Fourth Respondent for purchase of her property comprising an extent of 25 acres 3 cent in Karanthaneri Village, Nanguneri Taluk, Tirunelveli District and on her refusal to execute a registered sale deed in his favour after having received the entire sale consideration, the Petitioner has filed a suit in O.S.No.15 of 2007 in the First Additional District Munsif Court, Tirunelveli and had obtained an order of interim injunction dated 22.10.2007 in I.A.No.79 of 2007 restraining her from alienating the property till its disposal. The grievance sought to be ventilated by the Petitioner in this Writ Petition is despite having filed the above suit and obtained an interim order, the First Respondent in his order No. Reg.Objec.Petn.No.27/2011 dated 14.07.2011 in response to the objection petition dated 14.07.2011 filed by the Petitioner had informed that any document presented for registration in respect of the aforesaid property belonging to the Fourth Respondent would be decided in accordance with relevant legal provisions.

3. 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. This would obviously mean that the Fourth Respondent would have to apply for permission to transfer or deal with the property and the First Respondent cannot register any document in favour of any third party without the permission of that Court. In order to ensure that the



Fourth Respondent follows the aforesaid prescribed procedure, it would suffice for the Petitioner to implead the jurisdictional Registering Authority as a Defendant in that suit. If the Petitioner has already obtained a decree of specific performance in that suit, he would have to execute such decree and get the property transferred in his favour by executing necessary conveyance and register the same. Viewed from that perspective, there does not appear to be any infirmity in the decision making process followed by the First Respondent warranting any interference by this Court in the exercise of its discretionary process under Article 226 of the Constitution of India.

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

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sj

Note: Issue order copy by 23.03.2020.

To

- 1.The Sub-Registrar,
Nanguneri Sub Registrar's Office,
Nanguneri,
Tirunelveli District.
- 2.The District Registrar,
Tirunelveli District Registrar Officer,
Tirunelveli - 627 001.
- 3.The Inspector General of Registration,
Inspector General of Registration Office,
120, Santhome High Road,
Chennai - 600 028.

- +1 CC to M/s.F.X.EUGENE, Advocate (SR-11452[F])
- +1 CC to M/s.M.P.SENTHIL, Advocate (SR-11493[F])
- +1 CC to M/s.SPL.GP (SR-11794[F])

W.P. (MD)No. 8424 of 2011

Dated : 12.03.2020