



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.12215 of 2020

and

W.M.P (MD) .No.10481 of 2020

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T.Thirunavukarasu
S/o.Thangarasu
Seegan Vayal
Eswaran Kovil Village(Post)
Iluppur Taluk
Pudhukottai District.

... Petitioner

Vs.

- 1.The District Collector,
Pudhukottai District,
Pudukottai.
- 2.The Sub Registrar,
Ilupur Sub Registrar Office,
Pudukkottai District.

- 3.G.Krishnan
- 4.G.Mohan
- 5.G.Thurai
- 6.G.Ravi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 2nd respondent not to entertain the alienation of suit properties till the disposal of the main Civil Suit No.46 of 2020 on the file of the Principal District Judge cum Sessions Court, Pudukottai, based on the petitioner's representation dated 05.09.2020.

For Petitioner: Mr.K.K.Samy
For R1 and R2 : Mr.K.Sathiya Singh,
Additional Government Pleader

ORDER

This writ petition is filed to direct the second respondent not to entertain the alienation of suit properties, till the disposal of the main Civil Suit No.46 of 2020, on the file of the Principal District Judge cum Sessions Court, Pudukottai, based on the petitioner's representation dated 05.09.2020.

2.Heard Mr.K.K.Samy, learned counsel appearing for the petitioner and Mr.K.Sathiya Singh, learned Additional Government Pleader.



Pleader appearing for the first and second respondents.

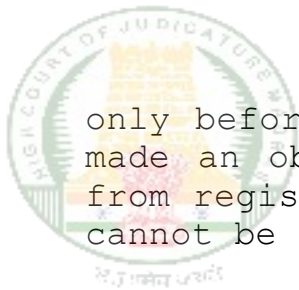
3. By consent of both parties, this writ petition is taken up for hearing and disposal.

4. According to the petitioner, on 10.09.2018, the petitioner entered into an agreement with the respondents 3 to 6 to buy a vacant site, which is situated in Iluppur Revenue Village, Pudukottai District and he has paid a sum of Rs.10,00,000/- as advance. As per the said agreement, the respondents 3 to 6 agreed to execute a sale deed in favour of the petitioner. Thereafter, the respondents 3 to 6 are attempting to sell the said property to some other persons. When the petitioner has come to know that, he approached the second respondent's office and informed that a civil suit is pending before the Additional District and Sessions Court, Pudukkottai, in respect of the alleged property. Though the petitioner has made an objection to the second respondent not to register the document, the second respondent has refused his objection. Therefore, the petitioner has filed the present writ petition for the aforesaid relief.

5. The learned counsel appearing for the petitioner submitted that once a case is pending in any Court with regard to the property in dispute/question, it is the duty of the Official respondents to do their duty as per law. He further submitted that as per Section 52 of the Transfer of Property Act, 1882, any property cannot be transferred during the pendency of the proceedings. Therefore, the petitioner has made an objection before the second respondent not to entertain the alienation of the suit property. The said request was not considered so far. Hence, he prays the aforesaid relief.

6. The learned Additional Government Pleader appearing for the respondents 1 and 2 submitted that the petitioner has filed a suit in O.S.No.46 of 2020 before the Additional District and Sessions Court, Pudukkottai, for specific performance, wherein, notice has been served to the defendants therein and thereafter, the said suit was adjourned for the appearance of the respondents 3 to 6.

7. According to the petitioner, the private respondents 3 to 6 had made an attempt to alienate the suit properties to the third parties. Therefore, the petitioner has made an objection before the second respondent and the same has not been considered on the ground that the suit is pending before the civil Court. On perusal of the petition, it is seen that the writ petitioner has already filed a suit in O.S.No.46 of 2020 before the Additional District and Sessions Court, Pudukkottai, for specific performance. Since the said suit is pending, the petitioner has to seek his relief



only before the civil Court. Without doing so, the petitioner has made an objection before the authority to restrain the authority from registering the document presented by the respondents 3 to 6, cannot be accepted and the same is unsustainable.

8.As per Rule 55 of the Tamil Nadu Registration Rules, 1983, the grounds raised by the writ petitioner has not been satisfied for directing the authorities to enquire into the petitioner's objection. Therefore, the petitioner has to approach the civil Court to seek his relief as sought for in the present writ petition. Hence, there is no grounds to entertain the present writ petition and the same is liable to be rejected.

9.With the above observations, this Writ Petition is dismissed with liberty to the petitioner to approach the civil Court to work out his remedy in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector,
Pudhukottai District,
Pudukottai.

2.The Sub Registrar,
Ilupur Sub Registrar Office,
Pudukkottai District.

+1 CC to SGP (SR-17824[F] dated 23/09/2020)

W.P. (MD)No.12215 of 2020
22.09.2020

VR(CO)

KM (21.10.2020) 3P 4C

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