



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P. (MD)No.12258 of 2020

R.Siromony

... Petitioner

Vs.

1.The Sub Registrar,
Thuckalay,
Kanyakumari District.

2.C.Prem Meshach

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the first respondent to consider the petitioner's objection submitted before the first respondent on 04.09.2020 and prevent any encumbrance over the property in Resurvey No.187/1A and 187/1B of Thuckalay Village, Kanyakumari District.

For Petitioner : Mr.S.C.Herold Singh

For R1 : Mr.K.Sathiya Singh,
Additional Government Pleader

ORDER

This writ petition is filed to direct the first respondent to consider the petitioner's objection submitted before the first respondent on 04.09.2020 and prevent any encumbrance over the property in Resurvey No.187/1A and 187/1B of Thuckalay Village, Kanyakumari District.

2.Heard Mr.S.C.Herold Singh, learned counsel appearing for the petitioner and Mr.K.Sathiya Singh, learned Additional Government Pleader appearing for the first respondent.

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



4. According to the writ petitioner, he had lent a sum of Rs.10,00,000/- to the second respondent, on 07.07.2017. After receiving the said amount, the second respondent neither paid the amount nor paid the interest. For repaying the said amount, the second respondent executed a promissory note agreeing to repay the said amount with interest. Thereafter, the second respondent did not repay the said amount. Therefore, the petitioner has filed a suit in O.S.No.79 of 2020 for recovery of money. During the pendency of the suit, the second respondent is making an attempt to dispose of the said property through online. Therefore, the petitioner has filed a petition for objection on 04.09.2020 and the same is kept pending. Since the petitioner's objection was not considered by the first respondent, the petitioner is before this Court.

5. The learned Additional Government Pleader appearing for the first respondent submitted that the petitioner has filed a suit in O.S.No.79 of 2020 before the Civil Court, for recovery of money and also filed an interlocutory application seeking to attach the property of the second respondent bearing Resurvey No.187/1A and 187/1B along with the said suit and the same is pending.

6. As per Rule 55 of the Tamil Nadu Registration Rules, 1983, the Registrar cannot enquire into the document as per UDR. Rule 55 of the Registration Act, which reads as follows:

"55. It forms no part of a registering officer's duty to enquire into the validity of a document brought to him for registration or to attend to any written or verbal protest against the registration of a document based on the ground that the executing party had no right to execute the document; but he is bound to consider objections raised on any of the grounds stated below:-

- (a) that the parties appearing or about to appear before him are not the persons they profess to be;
- (b) that the document is forged;
- (c) that the person appearing as a representative, assign or agent, has no right to appear in that capacity;
- (d) that the executing party is not really dead, as alleged by the party applying for registration; or
- (e) that the executing party is a minor or an idiot or a lunatic.

7. Considering the Rule 55 of the Tamil Nadu Registration Rules, 1983, the grounds raised by the writ petitioner has not been satisfied for preventing the second respondent from registering the document in the aforesaid property. Therefore, the petitioner has any objection, other than the ground under Rule 55 of the Tamil Nadu



Registration Rules, 1983, he has to seek his remedy before the civil Court. Hence there is no grounds to entertain the writ petition and the same is liable to be dismissed.

8. In fine, this Writ Petition stands dismissed. No costs.

WEB COPY

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Ns

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
The Sub Registrar,
Thuckalay,
Kanyakumari District.

+1 CC to M/s.GP (SR-17825[F] dated 23/09/2020)

W.P. (MD) No.12258 of 2020
22.09.2020

DKS (CO)
TR(03.11.2020) 3P 3C