



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.16526 of 2019

W.M.P. (MD) No.13177/2019

- 1.S.Backithammal @ Backiyam
2.S.Thangavel
3.S.Sekar
4.S.Viswanathan
5.V.Krishnamoorthy
6.A.Sivakumar

... Petitioners

Vs.

- 1.The Sub Registrar,
Kulithalai, Karur District.

2.The District Registrar (Admin)
Registration Department,
Karur, Karur District.

3.Rathinam Ammal

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the 1st respondent made in Aa.The.Mu.No...../2018 dated 12.11.2018 and the consequential proceedings of the 2nd respondent made in Na.Ka.No.3741/A1/2018 dated 11.03.2019 and quash the same and consequently direct the 1st respondent to register the sale deed received under Temporary No.TP/49459523/2018 executed by the petitioners 1 to 5 in favour of 6th petitioner.

For Petitioners : Mr.K.Govindarajan
For Respondents : Mr.M.Murugan for R1 & R2
Government Advocate
Mr.R.M.S.Sethuraman for R3

O R D E R

Challenging the order passed by the 1st respondent made in Aa.The.Mu.No...../2018 dated 12.11.2018 and the consequential proceedings of the 2nd respondent made in Na.Ka.No.3741/A1/2018 dated 11.03.2019 and consequently direct the 1st respondent to register the sale deed received under Temporary No.TP/49459523/2018 executed by the petitioners 1 to 5 in favour of 6th petitioner.

2.Heard the learned counsel for the parties.

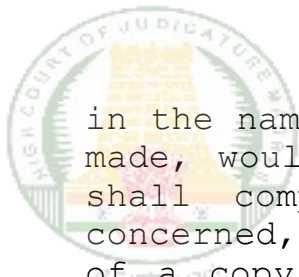


3.It is the case of the petitioners that the petitioners 1 to 5 intend to execute sale of the property belongs to them to an extent of 1.01 Ares in T.S.No.12/1 Kulithalai Village, Kulithalai Taluk, Karur District, in favour of the 6th petitioner. Pursuant to the sale consideration, the petitioners submitted an online application on 09.11.2018 and temporary number has also been assigned. While so, the first respondent refused to register the sale deed and thereby rejected the same, vide proceedings dated 12.11.2018 stating that for the very same property, the third respondent executed a settlement deed in favour of her husband on 17.03.2015. Challenging the same, the petitioners are before this Court with the present writ petition.

4. The sum and substance of the issue on hand is that the third respondent is a cultivating tenant and she has settled the property in favour of her husband, which is not permissible in law and the registration authority ought not to have registered the document. It is also not in dispute that the civil suit in O.S.Nos.196/2017 and 111/2018, filed by the 5th petitioner and the third respondent respectively, are pending. Once the document is registered by the authority concerned, in terms of the judgment of the Apex Court in **(2016) 10 SCC 767 [Satya Pal Anand v. State of Madhya Pradesh and others]**, the same authority cannot cancel the document, however, after a declaration is obtained, fresh registration can be made, based on the request of the original owner, either he/she wants to sell the property or retain the property.

5. In the present case on hand, in view of the decision of the Apex Court in **(2016) 10 SCC 767** (supra), nothing prevents the authorities from enquiring into the representation of the petitioner under Section 68(2) of the Tamil Nadu Registration Act, 1908 and come to the conclusion that there is no erroneous registration. However, the pendency of the suit is not a bar for them to arrive at a decision. Based on the decision to be arrived at by the authorities concerned, the petitioners herein can place the said order before the Court below, where civil suit is pending, get an observation in the suit, if the finding under Section 68(2) of the said Act is in their favour. Thereafter, based on the judgment and decree, it is open to the petitioners either to retain the property or to register it in the name of the third parties.

6. In view of the aforesaid observations, this Court is not inclined to render any other findings touching the merits of the civil Suit, as the same is subject matter before the Civil Court. It is made clear that once the finding under Section 68(2) of the said Act is in favour of the petitioners, all other consequential proceedings based on which, the patta or any other document stand



in the name of third parties, pursuant to the illegal registration made, would automatically stand cancelled. The second respondent shall complete the said exercise, after hearing the parties concerned, within a period of four months from the date of receipt of a copy of this order and furnish a copy of the same to the parties concerned. It is needless to mention that the Court below is expected to expedite the civil suits mentioned supra, proceed with the same without adjourning the matter beyond 15 working days, at any point of time.

7. Accordingly, the writ petition stands disposed of. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

RR

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 Sub Registrar,
Kulithalai
Karur District.

2.The District Registrar (Admin)
Registration Department,
Karur, Karur District.

+1 CC to SGP (SR-19783[F] dated 12/10/2020)

+1 CC to Mr.K. GOVINDARAJAN, Advocate (SR-19721[F] dated 12/10/2020)

Order made in

W.P. (MD)No.16526 of 2019 and

W.M.P. (MD) No.13177/2019

Dated:

09.10.2020

BK (CO)

KM (22.10.2020) 3P 5C

<https://hcservices.ecourts.gov.in/hcservices/>