



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2020

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD)No.16737 of 2015

Bharath

... Petitioner

vs.

1.The Inspector General of Registration,
Santhom High Road, Chennai.

2.The District Registrar,
Collectorate, Karur-639 007.

3.The Sub Registrar,
Aravakurichi, Aravakurichi Taluk,
Karur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the third respondent to register the document with respect to S.No.54/2 of Pavithram Village, Aravakurichi Taluk, Karur District, as and when the same is presented for registration.

For Petitioner : Mr.T.M.Madasamy

For Respondents : Mr.M.Murugan

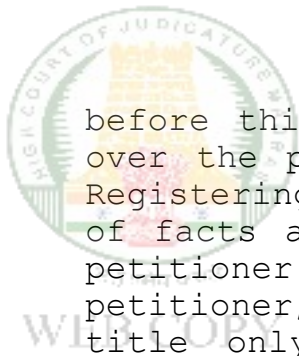
Government Advocate

O R D E R

This Writ Petition is filed for issuing a Writ of Mandamus to direct the third respondent to register the document with respect to S.No.54/2 of Pavithram Village, Aravakurichi Taluk, Karur District, as and when the same is presented for registration.

2.The petitioner claims ownership over an extent of 1 Acre out of an extent of 1 Acre 33 cents from one Baskar, S/o.Chinnusamy, by virtue of a registered sale deed, dated 06.06.2006 in Doc.No.3741 of 2006. The petitioner has also given particulars as to how the petitioner's vendor's vendor had title to the property. It is admitted that the name of one Maruthakali Ammal Temple is also shown as pattathar along with two others, as per prior entries in revenue records. The petitioner and his mother has jointly purchased the property measuring about 49 Ares by a sale deed, dated 06.06.2006. Immediately, thereafter, a public notice was issued by an advocate on behalf of the Temple stating that the Temple is the owner of several properties including the property in S.No.54 and that any sale deed obtained from strangers in respect of the property specified in the advertisement would not be binding on the Temple.

3.Except the paper publication and the mutation of revenue records to show that the name of petitioner and his mother also have been included as joint pattathar, no other document is produced



before this Court to consider the petitioner's assertion of title over the property. This Court sitting in a Writ Petition or the Registering Officer is not competent to go into disputed questions of facts and decide title. While registering any document, if the petitioner shows patta / revenue records in favour of the petitioner, the Sub-Registrar may consider the said document of title only for the purpose of registering the document. The petitioner has not presented any document for the registration before the third respondent. In such circumstances, anticipating an adverse order from the third respondent, who may refuse to register any document to be presented by the petitioner, the above Writ petition is filed.

4.The learned Counsel for the petitioner relied upon a judgment of this Court in the case of **Pandurangan vs The Sub Registrar of Reddiarpalayam, Pondichery and others**, reported in **2007 (1) CTC 641**. Learned Single Judge of this Court in the said judgment has observed that the power of Sub Registrar is circumscribed by provisions of the Registration Act. It is further held that a rule cannot enlarge powers vested in Registering Officer under Act and executive instructions cannot override either the Act or the Rules regulating the manner, in which the Sub Registrar should exercise statutory functions. Since the Registrar and Sub Registrar under the Registration Act are appointed by the State Government with specific power and duties, the learned Single Judge, after considering the scope of enquiry contemplated under Sub Section 3 of Section 34 of Registration Act, 1908, held that the Registering Officer can only enquire regarding the factum of execution of the document and the identity of the person, who execute the instrument and right of any person to appear as a representative or assignee or agent of the executant. Since Section 35 of the Registration Act, deals with procedure on admission and denial of execution with certain limitation, the learned Single Judge has held that the scope of enquiry to be conducted by the Registering Officer is limited by the Act to the factum of execution and identity of the person executing the document and that there is no scope for withholding any document submitted for registration and that the Sub Registrar or the appellate authority has no power to entertain such request.

5.The judgment relied upon by the learned Counsel for the petitioner is based on principles reiterated by several precedents and that therefore there is no quarrel with any of the propositions laid by learned Single Judge in the said judgment. However, in the present case, the petitioner has not even submitted any document for registration. While registering the document, the judgment relied upon by the petitioner may be followed by the Sub Register or any other officer. However, the same does not, for a moment, enable the petitioner to maintain this Writ Petition to issue general direction to the Sub Registrar to register the document to be presented by the



petitioner for registration.

6.The petitioner's name, of course, find in the revenue records by mutation, probably, pursuant to the sale deed obtained by the petitioner on 06.06.2006. However, the petitioner has not produced before this Court, the corresponding entries in favour of the vendors of the petitioner and there is no explanation as to how the Temple name has appeared in the revenue records along with the petitioner and mother. The Sub Registrar is not competent to decide the question of title or enjoyment or any right or privilege over any property, which is the subject matter of any document, which came before the Registering Officer for registration. However, there are other guidelines, which are also to be followed by the Registering Officer before presenting the document for registration. For example, under Tamil Nadu Patta Pass Book Act, the Registering Officer can accept the document for registration, only if the person, who execute the document of conveyance, has patta in his favour to deal with the property. Similarly, there are other aspects, which has to be looked into before accepting the document for registration.

7.In such circumstances, this Court cannot issue any general direction directing the Registering Authority to register the document to be presented by the petitioner. However, if the petitioner present a document for registration, the same shall be considered in accordance with law and taking into consider the scope of enquiry and the power of Sub Register at the time of registering the document. In fine, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

cmr

To

- 1.The Inspector General of Registration,Santhom High Road, Chennai.
- 2.The District Registrar,Collectorate, Karur-639 007.
- 3.The Sub Registrar,
Aravakurichi, Aravakurichi Taluk,Karur District.

+1 CC to M/s.T.M.MADASAMY, Advocate (SR-2856[F] dated 24/01/2020)

+1 CC to M/s.SPL.GP (SR-3182[F] dated 27/01/2020)

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