



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :10.03.2020

CORAM:

THE HONOURABLE JUSTICE C.V.KARTHIKEYAN

W.P. (MD)No.24967 of 2019

Sekar

... Petitioner

Vs.

1.The Sub Registrar,
O/o. Sub Registrar,
Viralimalai, Viralimalai Taluk,
Pudukottai District.

2.Kalaiselvi

3.Ravi

4.Baby

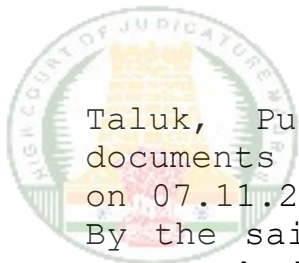
... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent in RFL/Viralimalai/93/2019, dated 11.11.2019 and quash the same as arbitrary, illegal and consequently direct the first respondent to register the sale deed executed by the fourth respondent in favour of the petitioner on 07.10.2019 and presented for registration on 11.11.2019 in respect of in Survey No.184/2B with an extent of 0.02.5 Ares of Viralimalai Town, Pudukottai District.

For Petitioner	:	Mr.K.Baalasundharam
For R-1	:	Mr.M.Murugan Government Advocate
For R-2	:	Mr.K.R,Singaravadivel
For R-3	:	Mr.M.Arul Jenifer
For R-4	:	Mr.G.Thandayuthapani

O R D E R

The Writ Petition filed seeking in the nature of Certiorarified Mandamus, calling for the records of the first respondent viz., the Sub Registrar, Viralimalai, Viralimalai



Taluk, Pudukottai District, who has refused to register the documents presented for registration viz., the sale deed executed on 07.11.2019, which was presented for registration on 11.11.2019. By the said sale deed, the fourth respondent viz., Baby, wife of James, had conveyed her intention to register the sale deed with respect to a property in Survey No.184 / 2B, measuring 0.02.5 Ares, in Viralimalai Village, Viralimalai Taluk, Pudukottai District, in favour of the petitioner Sekar.

2. There appears to be a litigation in O.S.No.413 of 2019, pending, on the file of the Principal Sub Court, Pudukottai District. The suit had been filed by the second respondent herein viz., Kalaiselvi and also her four minor children viz., Krishnaveni, Malarvizhi, Priyadharshini and Divya, as against the third respondent viz., Ravi, who is the husband of Kalaiselvi and Baby, fourth respondent herein, the wife of James and the petitioner viz., Sekar and also the Sub Registrar, Viralimalai. The said suit had been filed seeking partition and separate possession of the suit property, which is the property mentioned in the sale deed. It is the claim of the plaintiff that the property had been purchased by the fourth respondent herein Baby, out of her joint family income. It is stated that the trial is in progress. In the meanwhile, the petitioner had entered into the register agreement of sale with the fourth respondent. Pursuant to that of the sale deed was also executed on 07.11.2019 and when the same was presented for registration, the first respondent had refused to register the same on the ground that the suit is pending.

3. The learned counsel appearing for the first respondent / Sub Registrar, states that Rule 55 of the Registration Rules would show that the Sub Registrar can refuse to register a document on the ground that the suit is pending, if there is an order of Court prohibited such registration.

4. In the present case, the second respondent viz., Kalaiselvi, had filed I.A.No.413 of 2019, seeking such injunction. Unfortunately, the Court had not granted any injunction. However, the following directions are issued.

(i).Any sale executed by the fourth respondent in favour of the petitioner would be subject to the ultimate decision in O.S.No.413 of 2019.

(ii).Prior to such registration of the sale deed, the leave of the Court has also be obtained as maintained under Section 52 of the Transfer of Property Act.

(iii).Irrespective of whether the sale deed is



executed or not, if the plaintiff is to obtain a decree in the suit, the property can be proceeded against during execution, whether the name of the present title holder, Baby or the petitioner Sekar.

5. In the result, the Writ Petition stands disposed of. The Registration shall be subject to the result of the suit and also leave granted by the concerned Sub Court. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Tsg
To
The Sub Registrar,
O/o. Sub Registrar,
Viralimalai, Viralimalai Taluk,
Pudukottai District.

+1 CC to MR.K.BAALASUNDARAM, Advocate (SR-10875[F] dated 10/03/2020)

+1 CC to MR.KR.SINGARAVADIVEL, Advocate (SR-10903[F] dated 10/03/2020)

+1 CC to SPL.GP (SR-11062[F] dated 11/03/2020)

Order made in
W.P. (MD)No.24967 of 2019
Dated:10.03.2020

KM/ (24.03.2020) 3P 5C