



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2020

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WEB COPY

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. (MD)No. 25215 of 2019

and

W.M.P. (MD)No.21846 of 2019

Sathishkumar

... Petitioner

Vs.

1. The Inspector of General of Registration,
O/o.The Inspector of General of Registration,
No.120, Santhome High Road,
Chennai - 600 028.

2. The District Registrar,
Kumbakonam Registration District,
Kumbakonam, Thanjavur District.

3. The Sub-Registrar,
Natchiyarkovil Sub-Registrar Office,
Kumbakonam Taluk,
Thanjavur District.

... Respondents

Petition filed under Article 226 of the Constitution of India, for issue of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the Third Respondent in Refusal Number : RFL/Natchiyarkovil/15/19, dated 22.10.2019 and quash the same as illegal, ultravires without any authority without any sanction and consequently, to direct the Third Respondent herein to register the document presented for registration by the Petitioner in respect of the property comprised in S.No.247/1 Plot No.81 to an extent of 1836 $\frac{3}{4}$ sq ft. situated at Thirunaraiyur Village, Kumbakonam Taluk, Thanjavur District.

For Petitioner : Mr. S.Sadeskumar

For Respondents : Mr. M.Murugan
Government Advocate.



ORDER

The Petitioner is aggrieved by the refusal of the Respondents to register the document presented by him for registration in respect of the property which forms the subject matter of pending suit in O.S.No.322 of 2019 on the file of the Principal Sub-Court, Kumbakonam, in which his vendor, viz., T.S.Rajendran is the First Respondent.

2. In this regard, reference may be made to Section 52 of the Transfer of Property Act, 1882, which reads as follows:-

"52. Transfer of property pending suit relating thereto:-

During the pendency in any Court having authority within the limits of India excluding the State of Jammu and Kashmir or established beyond such limits by the Central Government of any suit or proceedings which is not collusive and in which any right to immovable property is directly and specifically in question, the property cannot be transferred or otherwise dealt with by any party to the suit or proceeding so as to affect the rights of any other party thereto under any decree or order which may be made therein, except under the authority of the Court and on such terms as it may impose.

3. On perusal of the aforesaid legal provision, it is evident that when the suit in respect of which immovable property is directly and specifically in question, any party to that suit cannot transfer or otherwise deal with such property without obtaining the prior permission of the Court where such suit is pending. This would obviously mean that it is open to the said T.S.Rajendran to make necessary application before the Civil Court where the suit is pending for permission to transfer or deal with the same by disclosing the nature of proposed transaction with details of the transferees so that appropriate orders in that regard could be passed on such application, and the registration of any document could be made after following the aforesaid procedure prescribed in Section 52 of the Transfer of Property Act, 1882. In view of that legal position, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to resort to that procedure.



4. Accordingly, the Writ Petition stands dismissed as withdrawn granting such liberty. Consequently connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1. The Inspector of General of Registration,
O/o.The Inspector of General of Registration,
No.120, Santhome High Road,
Chennai - 600 028.
2. The District Registrar,
Kumbakonam Registration District,
Kumbakonam, Thanjavur District.
3. The Sub-Registrar,
Natchiyarkovil Sub-Registrar Office,
Kumbakonam Taluk,
Thanjavur District.

+1cc to Mr. S.Sadeskumar, Advocate in SR.No. 11456

W.P. (MD)No. 25215 of 2019
and

W.M.P. (MD)No.21846 of 2019

Dated : 11.03.2020

das

AE (14.05.2020) 3P 5C