



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS.JUSTICE R.N.MANJULA

W.A.No.26 of 2020 against W.P.No.10039 of 2019

1.Kothanda Naidu
2.Venkatesa Naidu
3.Sudhakar .. Appellants/Respondents 3 to 5

Vs

1.R.Padamchand Jain
2.The District Registrar Chennai North
No.1, Moorthikal Lane, 1st Lane Beach,
Chennai - 600 001.
3.The Sub Registrar
Arani Sub-Registration Office,
No.3,S.P.Koil Street,
Arani, Ponneri Taluk,
Tiruvallur District.
.. Respondents/Petitioner/Respondents 1 & 2

Appeal filed under Clause 15 of Letters Patent against the order dated 26.07.2019 made in W.P.No.10039 of 2019.

Prayer in W.P.No.10039 of 2019 : Writ Petition filed under Article 226 of Constitution of India, seeking for a Writ of mandamus to directing the 2nd respondent not to admit and register any document of sale gift mortgage exchange settlement or any kind of document / deed in respect of the property owned by the petitioner being agricultural punja lands comprised in Survey No. 165/4A measuring an extent of acre 1.16 cents (0.47.0 hectare) situated at No. 92 Manjankaranai Village Uthukkottai Taluk Tiruvallur District without complying with the requirement under Section 5 and any other provisions of the Tamil Nadu Patta Pass Book Act 1986.



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For Appellants : Mr.N.Manoharan
for Mr.P.Krishnan
For Respondents : Mr.R.Munusamy for R1
Mr.S.John J.Raja Singh
Government Counsel
for R2 and R3

JUDGMENT
(Delivered by M.M.SUNDRESH, J.)

This appeal has been preferred by the appellant being the first respondent in the writ petition, aggrieved by the observation made by the learned Single Judge, while dismissing the writ petition qua the prayer sought for, inter alia, holding that in view of the rigour of Section 52 of the Transfer of Property Act, duty is enjoined upon the parties to obtain prior permission for transferring or otherwise dealing with the property in question.

2. The aforesaid observation, apart from being not germane to the relief sought for in the writ petition, is also contrary to law. Section 52 of the Transfer of Property Act speaks of the effect of alienation meaning thereby there is no prior permission for alienation. In any case, two suits have been filed by the first respondent being the writ petitioner stated to be pending in O.S.Nos.44 of 2018 and 55 of 2019 on the file of the District Munsif cum Judicial Magistrate, Uthukottai and Principal District and Sessions Judge, Tiruvallur. The earlier suit in O.S.No.44 of 2018 has been transferred to the District Court, Tiruvallur and re-numbered.

3. In such view of the matter, the observation made by the learned Single Judge on the scope and applicability of Section 52 of the Transfer of Property Act stands eschewed and to that extent, the writ appeal is allowed. However, we make it clear that our order will not stand in the way of the parties seeking appropriate orders in the pending suits.

4. The writ appeal stands allowed to the extent indicated above. No costs.

Sd/-
Assistant Registrar(IX)

//True copy//

Sub Assistant Registrar



mmi/ssm

To

1.The District Registrar Chennai North
No.1, Moorthikal Lane, 1st Lane Beach,
Chennai - 600 001.

2.The Sub Registrar
Arani Sub-Registration Office,
No.3,S.P.Koil Street,
Arani, Ponneri Taluk,
Tiruvallur District.

+1cc to Mr.P.Krishnan, Advocate SR.No.28827

+1cc to Government Pleader SR.No.28718

W.A.No.26 of 2020

SSN(CO)
GMY(15/07/2021)