

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2021

CORAM:

THE HON'BLE MR.JUSTICE N.SESHASAYEE

W.P.No.1850 of 2021

Vijaya

... Petitioner

Vs.

1.The Director General of Registration,
Sathome, Chennai -4.

2The Sub-Registrar,
Tharamangalam,
Salem District.

.... Respondents

Writ petition filed under Section 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records of the 2nd respondent proceedings dated 18.12.2020 in No.RFL/Taramangalam/54/2020 quash the same consequently direct the 2nd respondent to accept the petitioner's documents to sell his property bearing S.No.144/1, Tholasampatty, T.Maramangalam Village, Omalur Taluk, Salem District.

For Petitioner : Mr.S.N.Subramani

For Respondents: Mr.T.M.Pappiah
Special Government Pleader

O R D E R

Challenging the proceedings dated 18.12.2020 in No.RFL/Taramangalam/54/2020 and for a consequential direction to the 2nd respondent to accept the petitioner's documents to sell his property bearing S.No.144/1, Tholasampatty, T.Maramangalam Village, Omalur Taluk, Salem District, the present writ petition has been filed.

2. The grievance of the petitioner is that the Sub-Registrar, Tharamangalam, is refusing to register the sale deed dated 18.12.2020 merely because there was an earlier agreement of sale dated 20.10.2003 and 23.11.2004.

3. The learned counsel brought to the notice of this Court paragraph nos.39 and 40 of the judgment of a Division Bench of

this Court in N.Ramayee Vs. Sub-Registrar, Salem District and Another¹, which reads as under:

"39. We are of the view that except as provided in the Registration Act and any other statute, the Registrar has no power to refuse to register a document. Though the object of the Act is to prevent fraud, such occasion arises only where some private properties are notified under the Tamil Nadu Private Forest Act. In such case, sale of such property without permission of the Collector of the District is void. Only when such notification is available in respect of any property, the Registrar can verify whether the sanction of the Collector is obtained or not. Similarly, whenever properties have been declared as forest land or elephant corridor, etc., and the notification is available with Registrar, based on the above notification he can exercise power. Except the above, the Registrar has no power to refuse to register the document.

40. As already indicated, the purpose of registration is only to give a public notice. It is for the buyer or subsequent transferee to make reasonable enquiry. Doctrine of caveat emptor will also apply to every transfer. It is for them to verify the title of the property by making reasonable enquiry. At any event, subsequent transfer will always be subject to the rights already created. Therefore, it cannot be said that merely because agreement for sale is registered without obtaining decree of declaration that such agreement is void, subsequent transfer is prohibited and cannot be registered. We hold that as discussed in our judgement, Registrar has no right to refuse to register the subsequent document on the basis that agreement of sale was already registered in respect of same property. Accordingly, the reference is answered. Post the writ petition in W.P.No.674 of 2020 before the learned Single Judge for disposal."

4. Mr.T.M.Pappiah, learned Special Government Pleader submitted that the judgment of the Division Bench of this Court binds the Sub-Registrar concerned. The Sub-registrar is now required to act consistent with the Division Bench authority in Ramayee supra and take fresh call and register the sale deed

¹ W.P.No.674 of 2020 decided on 05.11.2020

dated 18.12.2020 as required by the petitioner within two weeks from the date of receipt of a copy of this order.

With the above direction, this writ petition is disposed of.
No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nsd
To

1.The Director General of Registration,
Sathome, Chennai -4.

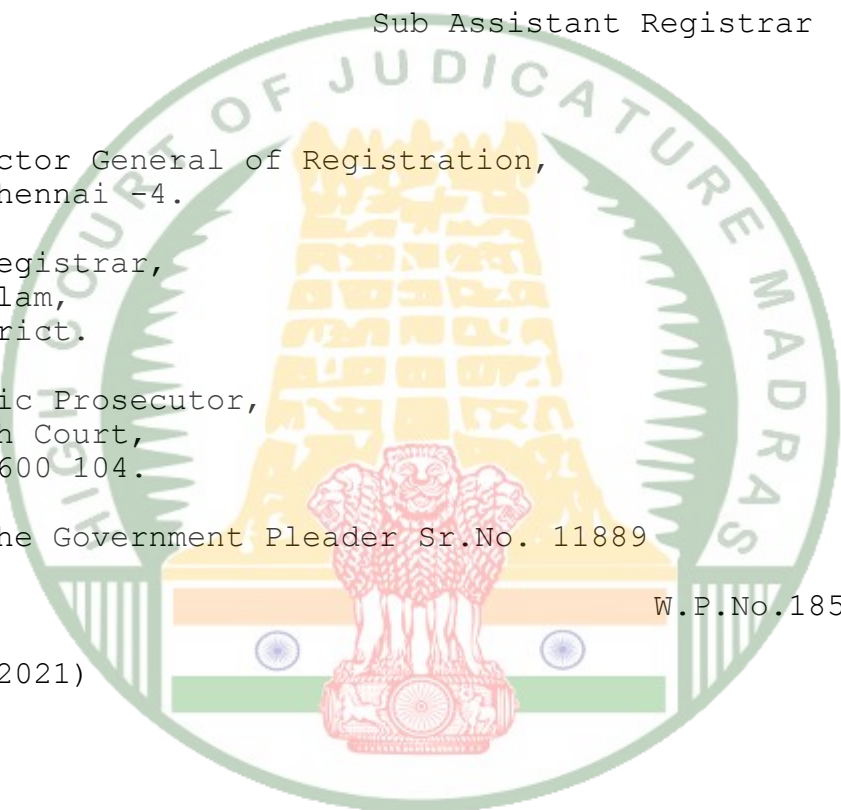
2The Sub-Registrar,
Tharamangalam,
Salem District.

3.The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

+1 cc to The Government Pleader Sr.No. 11889

W.P.No.1850 of 2021

PMK (CO)
RMP (25/03/2021)



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