

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 22107 of 2012

and M.P. No. 1 of 2012

Shahul Hameed

.. Petitioner

Vs.

1.The District Registrar,
Thindivanam.

2.The Sub-Registrar,
Vanur Registration Office,
Vanur.

3.The Inspector General of Registration,
Santhome High Road,
Chennai - 4.

4.Saleema Beevi

5.Fareeda Begum

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus forbearing the respondents 1 & 2 from registering any document presented by respondents 4 & 5 or their men and agents from any manner causing an encumbrance in respect of the property comprised in S.No.207/1 B, in Kottakuppam Village, Vanur Taluk, Villupuram District of an extent of 0.99.00 Hectare or 2.34 acres in Patta No.1600.

For Petitioners : Mr. N.A.Nissar Ahmed

For Respondent 1-3 : Mr. M.Elumalai

Additional Government Pleader

4&5 : No appearance

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O R D E R

This writ petition is filed for issuing a writ of madamus forbearing respondents 1 and 2 from registering any document presented by respondents 4 and 5 thereby causing encumbrance in respect of the property comprised in S.No.207/1 B, in Kottakuppam Village, Vanur Taluk, Villupuram District.

2. The petitioner states that the property measuring an extent of about 0.99.0 Hectares equivalent to 2.34 acres in S.No.207/1B, in Kottakuppam Village, Vanur Taluk, Villupuram District, belonged to his father late Mohammed Yasin. It is further stated that his father inherited the property from the

petitioner's grand father. It is the case of the petitioner that after the death of petitioner's father on 26.06.2002, the properties of his father devolved on the petitioner and the respondents 4 and 5 and one Zeenathul Munawara who are the sisters of the petitioner.

3. The case of the petitioner is that the patta for the property was not even transferred in the name of the petitioner and the other legal heirs of petitioner's father and that therefore respondents 3 and 4 has no right to deal with the property. The petitioner expressed his grievance that his right will be defeated if the respondents 3 and 4 are allowed to create a third party interest. Hence the petitioner has come before this Court for a direction to the Registering Authorities not to entertain any document for registration if it is executed by respondents 3 and 4.

4. The petitioner himself has admitted the right of respondents 3 and 4 as co-owners. The petitioner's sisters are co-owners and they are entitled to a share by succession. When the property stands in the name of petitioner's father and patta stood in his name, the property can be dealt with by all the heirs to the extent they are entitled to by succession. The petitioner, one of the co-owners, cannot prevent his sisters who are the other co-owners to deal with their share to which property they are entitled.

5. In the present case the petitioner cannot prevent the Registering Authority to entertain any document in respect of the property to which he is entitled to a share. The provisions of Registration Act does not deal with the situation preventing the registration on the objections of the other co-owners. The power of Registrar is explained in several judgments on the interpretations of provisions of Registration Act. The Registrar can refuse to register the document either under Section 22 A of the Act or under Section 71 of the Act. This Court has repeatedly held that the scope of enquiry by the Registrar, at the time when a document is presented for registration, relates to the identity of parties as contemplated under Section 34 of the Registration Act. Rule 55 of the Registration Act is also relevant. The combined reading of Section 34 and Rule 55 of the Registration Act indicates that Registering Officer need not conduct any enquiry to decide the title of parties to the document presented for registration. The Registering Officer can refuse to register only when he is satisfied that a document presented for registration is illegal or registration is opposed to public policy. The petitioner states that a civil suit is pending. If that is so, the petitioner's right is also protected and transaction or alienation will be subject to final outcome of the suit. The interest of the petitioner is therefore protected.

6. This Court finds no merits in the writ petition. Even if respondents 4 and 5 execute any document of conveyance representing that they are entitled to, the petitioner is not a party of the document. If a relief is granted, that will affect the rights of individuals particularly respondents 4 and 5 who are otherwise entitled to deal with the property at least to the extent they are entitled to as legal heirs of the petitioner's father.

7. As a result, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. It is also open to the petitioner to approach the Civil Court for appropriate relief.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The District Registrar,
Tindivanam.

2.The Sub-Registrar,
Vanur Registration Office,
Vanur.

3.The Inspector General of Registration,
Santhome High Road,
Chennai - 4

+1cc to M/S N.A.Nissar Ahmed. , Advocate SR.No. 13133
+1 cc to Government Pleader Sr.No. 13702

W.P. No. 22107 of 2012

SRA(CO)

A.SK(13.07.2021)

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