

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21..04..2021

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.7373 of 2021

and

W.M.P.No.7876 of 2021

1.R.Shanthi
2.R.Venugopal
3.R.S.Latha
4.L.Meena

.... Petitioners

-Versus-

1.The District Registrar,
District Registrar Office,
Rangampalayam,
Erode District.

2.The Sub-Registrar,
Sub Registrar Office,
Perundurai,
Erode District.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the Refusal Check Slip in refusal number RFL/Perunthurai/9/2020 dated 04.03.2021 and to quash the same as illegal, incompetent and ultra vires and consequently direct the 2nd respondent to register the sale deed dated 04.03.2021 executed by the petitioners.

For Petitioner : M/s.Yogalakshmi for
Mr.M.Guruprasad

For Respondent(s) : Mr.T.M.Pappiah,
Spl. Government Pleader

ORDER

[This matter has been heard through video conference]

This Writ Petition has been filed challenging the impugned Refusal Check Slip issued by the 2nd respondent, wherein the respondent refused to register the documents submitted by the petitioners on the ground that there has been a civil suit is pending in O.S.No.120 of 2020 on the file of the Principal District Judge, Erode.

2. The case of the petitioners is that the 1st petitioner is the wife and the petitioners 2 to 4 are son and daughters of Ramakrishnan. The said Ramakrishnan had purchased the property comprised in Old S.No.65 and New R.S.No.81/1 - 13, 82/1 -13 of Mukasipalayam Village, Perunthurai Taluk, Erode District, measuring an extent of 3.86 Acres out of 7.281/2 cents by way of registered sale deed vide Doc.No.3738 of 2016 dated 19.07.2016 from one P.Duraisamy. The said Ramakrishnan subsequently died leaving behind the petitioners as his legal heirs. The petitioners wanted to sell the properties to a third party and when they presented the sale deed before the 2nd respondent for registration, the 2nd respondent refused to register the document on the ground that there is a civil suit pending against the petitioners.

3. The learned counsel for the petitioners submitted that earlier, the said Ramakrishnan, while he was alive, executed a Gift Deed along with one R.Palanisamy and K.Ponnusamy in favour of the local body in respect of pathway. While so, the said Palanisamy and Ponnusamy have filed a suit in O.S.No.120 of 2020 seeking declaration that the gift deed (Doc. No.4489/2016 executed by them in favour of the local body on 06.09.2016 and the subsequent Rectification Deed (Doc.No.3038/2019) dated 10.04.2019 are not sustainable in law and are not binding on the plaintiffs therein. According to the learned counsel, the properties described in the schedule to the plaint have nothing to do with the properties which the petitioners wanted to convey. Further, according to the learned counsel, pendency of a civil suit is not a bar to register a document and if at all, it would only hit by principles of lis pendens. Therefore, the order impugned in this writ petition is not legally sustainable.

4. The learned counsel for the respondent would on the other hand submit that civil suit is pending between the petitioner and the others relating to Gift Deed executed in favour of the local body in which the Sub Registrar of Perundurai has been arrayed as 8th defendant. In those circumstances, the 2nd respondent has refused to register the document presented by the petitioners.

5. I have considered the rival submissions carefully.

6. The 2nd respondent has refused to register the sale deed presented by the petitioners only on the ground that there has been a civil suit pending between the parties. It is the settled law that pendency of civil suit is not a bar for transferring the property. If at all any transfer is made pending suit, it would only hit by Section 52 of The Transfer of Property Act and governed by principles of lis pendens and the document could be termed as void or voidable. The Sub Registrar cannot refuse to register the deed presented for registration citing the reason that there has been a civil suit pending.

7. In view of the above discussion, this Court is of the view that the order impugned in the writ petition is liable to be quashed. The 2nd respondent is directed to entertain the sale deed presented by the petitioners for registration and to register the same, subject to payment of the stamp duty and registration charges and papers are in order.

8. This Writ Petition is allowed with the above directions. No costs. Consequently, connected WMP is closed.

Sd/-

Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

kmk

To

1.The District Registrar,
District Registrar Office,
Rangampalayam,
Erode District.

2.The Sub-Registrar,
Sub Registrar Office,
Perundurai,
Erode District.

+1cc to Mr.M.Guruprasad, Advocate SR.No.24774

+1cc to Government Pleader SR.No.25034

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AJB(CO)
GMY(22/06/2021)