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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.9099 of 2021

1. V.Govindan,
S/o. Venkatrama Mooppar

2. G. Andal,
W/o.V.Govindan

... Petitioners

Vs.

1. The Inspector General of
Registration,
100, Santhome High Road,
Chennai-600 028.

2. The District Registrar,
(Adminsitration - Addl. Charge),
Kallakurichi,
Kallakurichi Dt.

3. The Joint Sub-Registrar No.1,
Kallakurichi SRO,
Kallakurichi, Kallakurichi Dt.

4. R.Manikandan,
S/o. K.Rajagopal

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 03.03.2021 made in Na.Ka.No.817/A1/2021 passed by the 2nd respondent, quash the same, consequently direct the 3rd respondent to register the sale deed dated 30.06.2016 executed by the 4th respondent in the names of the petitioners in respect of pending document No.18/2016, on its presentation by the 4th respondent or under the provisions of compulsory registration.



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For Petitioner :Mr.N.Manokaran

For Respondents:Mr.K.M.D.Muhilan,
Government Advocate for R1 to R3

Mr. R.Kumaravel for R4

O R D E R

(The case has been heard through video conference)

The Writ Petition has been filed challenging the order passed by the 2nd respondent refusing to register the sale deed presented by the petitioners.

2. Brief facts leading to the filing of the Writ Petition is as follows:-

The petitioners have purchased a property in Survey Nos.91/3D and 92/1, situate at Emaper Village, Kallakurichi Taluk from the 4th respondent and he has executed a sale deed on 30.06.2016 after receipt of total sale consideration of Rs.3,45,000/-. Thereafter, the petitioners and the 4th respondent have presented the document for registration before the 3rd respondent, wherein the 3rd respondent refused to register the same on the ground that there is a title dispute between the parties. Challenging the said order, the 4th respondent and the petitioners have filed a Writ Petition before this Court in W.P.No. 21629 of 2017 and this court by an order dated 20.02.2020 has set aside the orders passed by the 2nd and 3rd respondents refusing to register the document and directed the petitioner to present sale deed before the 3rd respondent and upon compliance of other formalities as may be required, the 3rd respondent shall accept the same for registration and release the same in favour of petitioners 2 and 3 therein. The relevant portion of the order reads as follows :-

"Thus, for all the reasons stated above, the Writ Petition is allowed and the impugned orders are set aside. Consequently, the petitioner is directed to present the sale deed for registration before the third respondent and upon compliance of other formalities as may be required, the third respondent shall accept the same for registration and register and release the same in favour of the petitioners 2 and 3."

Even though the order was passed on 20.02.2020, according to the petitioner, the copy of order was made ready only on 21.07.2020 due to pandemic. Immediately, the petitioner had approached the 3rd respondent and requested him to register the document. However, during that interregnum, the 4th respondent vendor has



refused to come forward to register the document. Hence, the petitioner has made an application before the 3rd respondent to make compulsory registration under Sec.74 of Registration Act (hereinafter called as 'Act'). But, the 3rd respondent Joint Sub-Registrar has refused to register the same. Accordingly, the petitioner has again approached 2nd respondent and now, the 2nd respondent had passed the impugned order rejecting the petitioners' request on the ground that, the petitioners' request will not fall under Sec.74 of the Act and the petitioners' request seeking for compulsory registration cannot be done. Challenging the said order, the present Writ Petition has been filed.

3. Mr.N.Manokaran, learned counsel appearing for petitioners would submit that, the 4th respondent is the owner of the property and after receiving sale consideration, he has executed a sale deed, thereafter, the petitioners and 4th respondent have jointly filed the document for registration in the year 2016. Alleging that, there is some title dispute between the 4th respondent and others, the 2nd and 3rd respondents have refused to register the same. Hence, they have jointly approached this court and this court had specifically directed the 3rd respondent to register the document after compliance of all formalities. After complying all the formalities within time, the petitioners have presented the document, and requested the 4th respondent to come and comply with registration formalities, but he has changed his mind and refused to come. Hence, the petitioner has submitted a representation before the 2nd respondent seeking to invoke the provisions of a compulsory registration provided under Sec. 74 of the Act, and now that has been rejected by the 2nd respondent on the ground of delay. As the 2nd respondent has cited delay in submitting the document, according to the petitioner, even though the document was executed in the year 2016, subsequently, based on the order passed by this court in W.P.No. 21629 of 2017, the document was presented in time. Hence, there is no delay in submitting the document. As this Court specifically directed the 3rd respondent to register the document, the 3rd respondent cannot refuse to register the document on the ground that the vendor is not present. When the vendor did not specifically denying the execution of document, it is the duty cast upon the 3rd respondent to make compulsory registration under Sec.74 of the Act.

4. The 4th respondent filed a counter affidavit admitting the execution of sale deed, and stated that, even though the sale deed was executed by him, the sale consideration was not paid to him. In the said circumstances, he is not able to come forward to execute the sale deed. The learned counsel appearing for 4th respondent would vehemently contended that, the



petitioners have not paid the sale consideration and hence, he is not in a position to come forward to execute the sale deed.

5. Heard rival submissions made by learned counsel appearing for petitioner as well as learned Government Advocate and perused the records.

6. On perusal of records, it could be seen that, after the execution of sale deed, the petitioners and the 4th respondent, who is owner of property, have jointly presented the document for registration. When the same was refused, they have jointly filed a Writ Petition and this Court has specifically directed the 3rd respondent to register the document, if the other formalities are complied with. Thereafter, after receipt of copy of the order, the petitioners have represented the sale deed for registration. In the said circumstances, the 3rd respondent cannot deny the registration of sale deed on the ground that, there is a delay in presenting the document. Since the copy of order was made ready on 21.07.2020, and the document was presented on 20.11.2020 within the time prescribed in the Act, the 2nd respondent cannot refuse registration of document on the ground of delay in presenting the document.

7. The next issue is that, the 4th respondent vendor has not come forward to register the document, the 4th respondent admitting the execution of sale deed and earlier presented the document for registration, and also filed a Writ Petition seeking for registration along with the petition, now refused to come forward for registration on the ground that, the sale consideration was not paid to him. If at all, the petitioner has any grievance regarding non-payment of sale consideration, it is always open to him to approach competent forum to get back the money and on that ground, the 4th respondent cannot refuse to come forward to register the document, when the execution of sale deed is not denied. In the said circumstances, the 4th respondent is directed to appear before the 3rd respondent and get the document registered. In the event of 4th respondent fails to appear before the 3rd respondent, it is open to the 3rd respondent to register the document in absence of 4th respondent as directed by this court in W.P.No. 21629 of 2017. Accordingly, this Writ Petition stands allowed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar



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To

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1. The Inspector General of
Registration,
100, Santhome High Road,
Chennai-600 028.
2. The District Registrar,
(Adminsitration - Addl. Charge),
Kallakurichi,
Kallakurichi District.
3. The Joint Sub-Registrar No.1,
Kallakurichi SRO,
Kallakurichi, Kallakurichi District.

+1cc to Mr.N.Manokaran, Advocate Sr.33183
+1cc to Mr.R.Kumaravel, Advocate Sr.33391
+1cc to the Government Pleader Sr.33543

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