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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2021

CORAM

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

W.P. No.14445 of 2021

K.M.Thangaraj ... Petitioner

Vs

1. The District Registrar,
   Tiruppur District,
   Tiruppur.

2. The Sub Registrar,
   Palladam Sub Registrar Office,
   Palladam, Tiruppur. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd respondent to register the petitioner's sale deed dated 16.06.2021 bearing Doc.No.P/ Palladam/11/2021 and consequently return the original sale deed.

For petitioner ... Mr.V.P.Senguttuvel
for Mr. K.S.Karthik Raja

For respondents ... Mr. Yogesh Kannadasan
Government Advocate

ORDER

This writ petition has been filed seeking a direction to the 2nd respondent to register the sale deed presented by the petitioner.

2. According to the petitioner, he has purchased a property to an extent of 94 cents in S.F.N o.309/4A from one Palanisamy and others and presented the same to the 2nd respondent for registration. But, the 2nd respondent/Sub-Registrar, keeping the document pending and refused to register the same, stating that a sale agreement is pending in respect of the above said property. Subsequently, the petitioner approached the 2nd respondent and explained that the vendor of the petitioner is in possession of the property from the year 1973 and there is no sale agreement either registered or un-registered as on date. Despite the same, the Sub-Registrar

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refused to register the same. Hence, the present writ petition has been filed.

3. The learned counsel for the petitioner would submit that petitioner's vendor obtained the property by way of sale deed in the year 2006. Even before that, his family was in possession and enjoyment of the same from the year 1972. Absolutely, there is no sale agreement in respect of the above property and there is no encumbrance in the records regarding any sale agreement.

4. The learned counsel further submit that even assuming that there is a sale agreement, it is not a bar for transferring the property and he has also relied upon a Division Bench of this Court in the case of N. Ramayee /vs/ Sub-Registrar, Registration Department and another reported in 2020 (6) CTC 697.

5. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

6. According to the petitioner, the one and only objection raised by the 2nd respondent for registering the document is that, a sale agreement is pending in respect of the same property. According to the petitioner, there is no sale agreement and there is also no encumbrance in the register showing any registration of sale agreement in respect of the said property and there is no encumbrance. As rightly contended by the learned counsel for the petitioner, even assuming that there is a sale agreement, it is not a bar for transferring the property. A Division Bench of this Court in the case of N. Ramayee /vs/ Sub-Registrar, Registration Department and another reported in 2020 (6) CTC 697, has held as follows :

> "46. Accordingly, we answer the reference as follows:
>
> If an agreement for sale is registered in respect of immovable property, the same will not be a bar for the owner of the property to effect subsequent transfers in respect of the same property. The Registrar has no right to refuse to register the document, except the documents relating to immovable properties mentioned in Section 22-A of the Tamil Nadu Act and as contemplated under Rule 162 of the Registration Rules."

7. Considering the above circumstances, the 2nd respondent cannot refuse the register the sale agreement only on the ground of existence of sale agreement.

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8. Accordingly, the 2nd respondent is directed to register the sale deed dated 16.06.2021, if it is otherwise in order, within a period of 12 weeks from the date of receipt of a copy of this order.

9. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CO-IV)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The District Registrar,
   Tiruppur District,
   Tiruppur.

2. The Sub Registrar,
   Pallada Sub Registrar Office,
   Palladam, Tiruppur.

+1cc to the Government Pleader, S.R.No.36559

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NK(CO)
CT(23/08/2021)

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