



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NO.17721 OF 2021

AND

W.M.P.NO.18895 OF 2021

Deivasigamani

... Petitioner

.Vs.

1. The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalaipuram,
Chennai - 600 028.
2. The District Registrar,
Erode District Registration Office,
Rangampalayam,
Erode - 638 009.
3. The Sub-Registrar,
Perundurai Sub Registration Office,
Perundurai, Erode District.
4. R.Dhamodaran
5. Nandhagopal
6. Palanisamy Gounder

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to forbear the respondents 1 to 3 herein from in any manner accepting any document for registration with respect to any of the suit properties in the partition suit O.S.No.151 of 2013 on the file of Sub Court, Perundurai, Erode District, without there being final decree passed therein and in view of legal bar under Section 21(1) of the Registration Act, on the basis of the representation given by the petitioner on 30.07.2021.



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For Petitioner : Mr.L.Chandra Kumar
For Mr.K.Muthuganesapandian
Senior Advocate

For RR1 to 3 : Mr.Yogesh Kannadasan
Government Advocate

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus, to forbear the respondents 1 to 3 herein from in any manner accepting any document for registration with respect to any of the suit properties in the partition suit O.S.No.151 of 2013 on the file of Sub Court, Perundurai, Erode District, without there being final decree passed therein and in view of legal bar under Section 21(1) of the Registration Act, on the basis of the representation given by the petitioner on 30.07.2021.

2. According to the petitioner, he is the joint owner of R.S.No.57/6. While so, the petitioner harvested paddy in the said survey number, the other co-owners prevented him into the petitioner's land. In the meanwhile, the 4th respondent and others filed a partition suit in O.S.No.151/2013 before the Subordinate Court, Perundurai, and obtained a preliminary decree in their favour. During the pendency of the suit, among family members of undivided suit properties, any encumbrance of alienation, transfer, conveyance or mortgage or lease of registration is subject to the final decree to be passed in the above partition suit. Therefore, there is a legal bar for the respondents herein from registering any of the document in respect of the above suit properties. Further, the suit properties are comprised of 10 items and each of the item consists several survey numbers, any registration is only subject to file final decree to be passed in the partition suit under Section 21(1) of the Registration Act, and proper description to identify the properties. Without there being final decree, there cannot be any determination and allotment of properties to the parties to the suit so as to have proper description of properties sufficient to identify the same. Therefore. the petitioner sent a representation to the respondents on 30.07.2021 forbearing the respondents from accepting the documents for registration in respect of the property in dispute, but, the Authorities have not taken any steps in this regard. Hence, the petitioner has come forward with the present writ petition.

3. The learned counsel appearing for the petitioner submitted that the petitioner will be satisfied if a direction



is issued to the respondent to consider the petitioner's representation dated 30.07.2021 and dispose of the same within a stipulated time that may be framed by this Court.

4. Having regard to the limited scope of the prayer that is now sought for in this writ petition before this Court and taking into account the submissions made on either side, without expressing any opinion on the merits of the petitioner's representation or the case pleaded by the petitioner in the present writ petition, the Writ Petition is disposed of, with a direction to the respondent to consider the petitioner's representation dated 30.07.2021 and pass appropriate orders, on merits and in accordance with law, after issuing notice to the petitioner and respondents within a period of eight weeks from the date of receipt of a copy of this order. Consequently, W.M.P.No.18895 of 2021 is also closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gba/msm

To

1. The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalaipuram,
Chennai - 600 028.
2. The District Registrar,
Erode District Registration Office,
Rangampalayam, Erode - 638 009.
3. The Sub-Registrar,
Perundurai Sub Registration Office,
Perundurai, Erode District.

+1cc to Mr.K.Muthuganesapandian, Advocate, S.R.No.54997
+1cc to the Government Pleader, S.R.No.55389

W.P.NO.17721 OF 2021

KSM(CO)
PBS/13/12/2021