

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.19662 OF 2021

AND

W.M.P.NOS.20951 AND 20953 OF 2021

1. Minor-Priyanka
2. Minor-Arun
Rep by her Mother/Guardian,
V.Baby, W/o.Velusamy,
29, Amman Nagar, Vellalore Post,
Coimbatore - 641 111.

... Petitioners

-Vs-

The Sub-Registrar,
Madukkarai,
Coimbatore District.

... Respondent

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent not to register any document pertaining to petitioners' property at Madukkarai Taluk, Malumichampatti Village, Coimbatore District bearing Survey No.540/1C1, measuring about 60¼ cents and consider the representation of the petitioners, dated 04.08.2021 on the file of the respondent.

For Petitioners : No Appearance.

For Respondent : Mr.Yogesh Kannadasan
Government Advocate.

ORDER

This Writ Petition has been filed for the issuance of Writ of Mandamus, directing the respondent not to register any document pertaining to petitioners' property at Madukkarai Taluk, Malumichampatti Village, Coimbatore District bearing Survey No.540/1C1, measuring about 60¼ cents and consider the representation of the petitioners, dated 04.08.2021 on the file of the respondent.

2. There is no appearance for the petitioners. Heard Mr.Yogesh Kannadasan, learned Government Advocate appearing for the respondent.

3. The petitioners' father derived title over the subject property by a Deed of partition, dated 22.01.2021 between his brothers registered vide Document No.941 of 2021. Accordingly, their father was allotted his share from the joint family property. The petitioners and their mother were deserted by their father since he is being addicted to alcohol and other bad habits. He neither maintained the petitioners nor contributed for their daily needs. Their father also executed agreement for sale, registered vide Document No.4090 of 2021, dated 24.06.2021 with an ulterior motive to restrict the petitioners from getting any share in the subject property.

4. Therefore, the petitioners to protect their rights have also filed a suit in O.S.No.531 of 2021 on the file of the First Additional District Court, Coimbatore for partition and it is pending. Pending the suit, the petitioners also submitted protest petition before the respondent on 04.08.2021 requesting not to register any document pertaining to the property comprised in Survey No.540/1C1, ad-measuring 60¼ cents, situated at Madukkarai Taluk, Malumichampatti Village, Coimbatore District.

5. On receipt of the representation, dated 04.08.2021, the respondent conducted a detailed enquiry and concluded that,

a) As per the Standing Order issued by the Inspector General of Registration, an order restraining a person from alienating certain property does not operate as a

prohibition to the registering officer unless such order is to the registering officer, as per Standing Order No.238(a).

b) No document shall be accepted for registration, where the registering officer has been impleaded as party and restrained by the Court not to register any document in respect of any property as per Standing Order No.238(b).

c) As per Standing Order No.664, the registration cannot be refused merely on account of the objection of a person who is not a party to the document that this interests will thereby be affected prejudicially, a party who objects to registration on that ground should be informed in writing that he should seek redress in a Court of law.

6. Therefore, the respondent rejected the representation for the reason that there is no prohibitory order prescribing the respondent not to register any document. Further, the petitioners failed to produce any document to show that they have title over the property.

7. Thus, it is clear from the above standing orders, if there is any restraining order as against the respondent, the respondent can refuse to register the document. Admittedly, the petitioners filed a partition suit as against their father in O.S.No.531 of 2021 on the file of the First Additional District Court, Coimbatore and it is pending without any interim order as against the respondent herein. In fact, the respondent is not the party to the said suit. That apart, the subject property derived by their father by way of a partition deed, dated 22.01.2021 is from joint family property.

8. Therefore, the respondent rightly rejected the protest petition submitted by the petitioners. Therefore, the writ petition is devoid of merits and liable to be dismissed. However, the petitioners are at liberty to work out their remedy for their maintenance if any, before the appropriate Court as against their father in the manner known to law, if so advised.

9. In view of the above, this writ petition stands dismissed. Consequently, connected Miscellaneous petitions are closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

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To

The Sub-Registrar,
Madukkarai,
Coimbatore District.

+1cc to the Government Pleader, S.R.No.58185

W.P.No.19662 of 2021
and W.M.P.Nos.20951 and 20953 of 2021

NK(CO)
RLP(24/11/2021)