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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No.21754 of 2021

Mujibur Rahman

... Petitioner

-Vs-

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028.

2.The Sub-Registrar,
Sub-Registrar Office, Ulundurpet,
Kallakurichi District.

3.Mrs. Rahibul Bivi

... Respondents

PRAYER: This Petition is filed under Article 226 of the Constitution of India, praying for the issue a Writ of Mandamus, directing the respondents 1 and 2 not to make any registration in respect of the properties situated in Survey Nos.389/2, 388/3, 388/4 and 389/7 in Keeranur Village, Ulundurpet executed by the 3rd respondent and pass orders accordingly.

For Petitioner :: Mr. B. Abdul Samath

For Respondents :: Mr.Yogesh Kannadasan
(Government Advocate)

* * * * *

O R D E R

The relief sought for in this writ petition is for a direction to the respondents to take action on the representation dated 17.09.2021 seeking not to make any registration in respect of the properties situated in Survey Nos.389/2, 388/3, 388/4 and 389/7 in Keeranur Village, Ulundurpet and pass orders accordingly.

2. The learned counsel for the petitioner would submit that the petitioner and his father Pichaigani Sahib were working in Aborad and out of their income, some properties were purchased in the name of the father and mother of the petitioner and some



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was purchased in the name of the mother of the petitioner in Survey Nos.389/2, 388/3, 388/7 and 389/7 in Keeranur Village, Ulundurpet. While being so, the father of the petitioner died intestate leaving the petitioner and other legal heirs. the petitioner's mother is entitled for 1/8th share and other legal heirs including the petitioner herein are entitled to the remaining 7/8 shares. After the demise of the father of the petitioner, the mother of the petitioner claiming the aforesaid property as she is absolute owner of the property alienated the same in favour of petitioner's brother and refused to come forward for partition of property. Under such circumstances, the petitioner has sent a protest petition to the 2nd respondent on 22.11.2016 and the same was taken on file by the 2nd respondent as 75 of 2016. Thereafter, the petitioner has filed a suit for partition in O.S. No.500 of 2016 on the file of the Additional Sub-Court-II and subsequently transferred on the file of the Sub-Court, Ulundurpet in O.S. No.97 of 2017. Thereafter, a petition for interim injunction was also filed in I.A. No.242 of 2017 seeking to restrain the defendants from alienating the property and creating further encumbrances in the suit property and the same was allowed by order dated 08.11.2017. However, the mother of the petitioner has been continuously taking steps to alienate the said property. The petitioner again gave a protest petition on 09.03.2021 to the 2nd respondent herein not to make any registration and create further encumbrance with respect of the property situated in Survey Nos.389/2, 388/3, 388/4 and 389/7 and the same was taken on file by the 2nd respondent as 15 of 2021.

3. It has been further submitted that it is pertinent to note that the petitioner's is taking steps to alienate the property in spite of the order passed by the learned Sub-Court, Ulundurpet in I.A. No.242 of 2017 in O.S. No.97 of 2017. Further, while the 2nd respondent was about to register a deed, that knowing the same, the petitioner went to the office of the 2nd respondent and informed about the pendency of the suit and the interim order was also passed therein. However, the petitioner was informed that there is no direction to the 2nd respondent from the competent Court not to register the document for the aforesaid property. Hence, the petitioner has given another protest petition on 17.09.2021 to the 2nd respondent not to make any registration and create further encumbrance with respect of the aforesaid property. Further he brought to the knowledge of this Court that every time when the Sub-Registrar changes, the petitioner's mother is trying to create encumbrance by selling the joint family property in spite of the order of injunction. Hence, the petitioner is left with no other alternative and efficacious remedy except to approach this Court by invoking under Article 226 of Constitution of India seeking for Writ of Mandamus directing the respondents 1 and 2 not to



make any registration in respect of the properties situated in Survey Nos.389/2, 388/3, 388/4 and 389/7 in Keeranur Village, Ulundurpet. Hence this petition.

4. The learned Government Advocate appearing for the 1 and 2 respondents would submit that while the pendency of the suit in O.S. No.97 of 2017 before the Trial Court and the Court below has granted interim injunction in favour of the petitioner in I.A. No.242 of 2017, the 3rd respondent ought not to have registered any document for the aforesaid property. Hence, the respondents 1 and 2 may be directed not to register any document in respect of the properties situated in Survey Nos.389/2, 388/3, 388/4 and 389/7 in Keeranur Village, Ulundurpet.

5. Heard, the learned counsel for the petitioner and the learned Government Advocate for the respondents 1 and 2 as well as perused the material available on record.

6. Having considered the facts and circumstances of the case and submissions made by the learned counsel for the petitioner and the learned Government Advocate for the respondents 1 and 2, this Court directs the respondents 1 and 2 not to entertain any such registration since the interim injunction has been granted by the Court below on 08/11/2017 in I.A. No.242 of 2017 in O.S. No.97 of 2017 on the file of the Sub-Court, Ulundurpet, untill further orders are to be passed by the Court below in this regard.

7. With the aforesaid directions, the Writ petition stands disposed of accordingly. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-VI)

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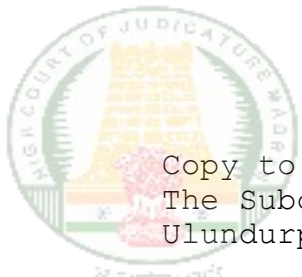
Sub Assistant Registrar

Lbm

To:

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028.

2.The Sub-Registrar,
Sub-Registrar Office, Ulundurpet,
Kallakurichi District.



Copy to:
The Subordinate Judge,
Ulundurpet.

+1cc to Mr.B.Abdul Samath, Advocate, S.R.No.53295

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GPL (CO)
CB(01/11/2021)