

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.20441 of 2020

1. Durairaj
2. R.Asokan

.. Petitioners

Vs.

The Sub Registrar,
Needamangalam,
Thiruvarur District.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus calling for the records of the respondent's impugned order passed in RFL/Needamangalam/70/2020 and RFL/Needamangalam/69/2020, dated 11.11.2020 and quash the same and consequently direct the respondent to register the document as in the manner which is presented before him.

For Petitioners : Mr.S.Venkatesan,
for Mr.P.Paramasiva Doss

For Respondent : Mr.T.M.Pappiah,
Special Government Pleader

O R D E R

(The case has been heard through video conference)

This writ petition has been filed challenging the Check Slip issued by the respondent thereby refusing to register the sale deeds on the ground that a civil suit is pending between the parties.

2. According to the petitioners, originally the property was owned by one Mr.Ramachandran Naidu, the father of the petitioners and he died intestate leaving behind the petitioners, his wife Amsavalli, and his daughter Padmavathy as his legal heirs. The petitioners partitioned the properties vide registered partition deed dated 27.07.2002, and by virtue of the partition deed the properties devolved upon the petitioners.

3. Subsequently, the sister of the petitioners Ms.Padmavathy filed a suit in O.S.No.34 of 2020, on the file of the learned District Munsif cum Judicial Magistrate, Needamangalam, to set aside the registered partition deed and other deeds and the said suit is still pending.

4. The petitioners with an intent to sell the property, executed a sale deeds in favour of third parties, and produced the same for registration. The Sub Registrar refused to register the sale deeds on the ground that civil suit is pending between the parties. Challenging the same, the present writ petition has been filed.

5. Mr.S.Venkatesan, learned counsel appearing for the petitioners submitted that the petitioners and their sister Ms.Padmavathy entered into partition and the same was registered. Thereafter, on frivolous grounds filed a suit to set aside the registered partition deed and other deeds. The said suit is still pending and no decree has been granted in favour of their sister. He further submitted that mere pendency of the suit is no bar for the respondent to register the document. The respondent without considering the same has refused to register the document.

6. Mr.T.M.Pappiah, learned Special Government Pleader appearing for the respondent would submit that since a civil suit is pending between the parties, the Sub Registrar refused to register the document and until the suit is decided, the petitioners cannot claim any right over the property.

7. I have considered the rival submissions and also perused the records carefully.

8. Admittedly the said suit is still pending and no decree has been passed. Any transfer of property that takes place during the pendency of the suit, at best, will be hit by the principles of Lis Pendens, and Section 52 of Transfer of Property Act and the same will not automatically result in rendering the transaction 'void' or 'illegal'. In the said circumstances, mere pendency of the suit cannot be a ground to refuse registration. That apart, there is no specific bar in Registration Act, preventing the Registrar to register any document pending suit, and Registrar cannot refuse registration on that ground.

9. In the above circumstances, the impugned orders passed by the respondent in RFL/Needamangalam/70/2020 and RFL/Needamangalam/69 /2020, dated 11.11.2020 are not sustainable in the eye of law and they are liable to be set aside and accordingly set aside, consequently, the respondent is directed to register the documents if it is otherwise in order.

10. In the result, the writ petition is allowed with the above directions. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

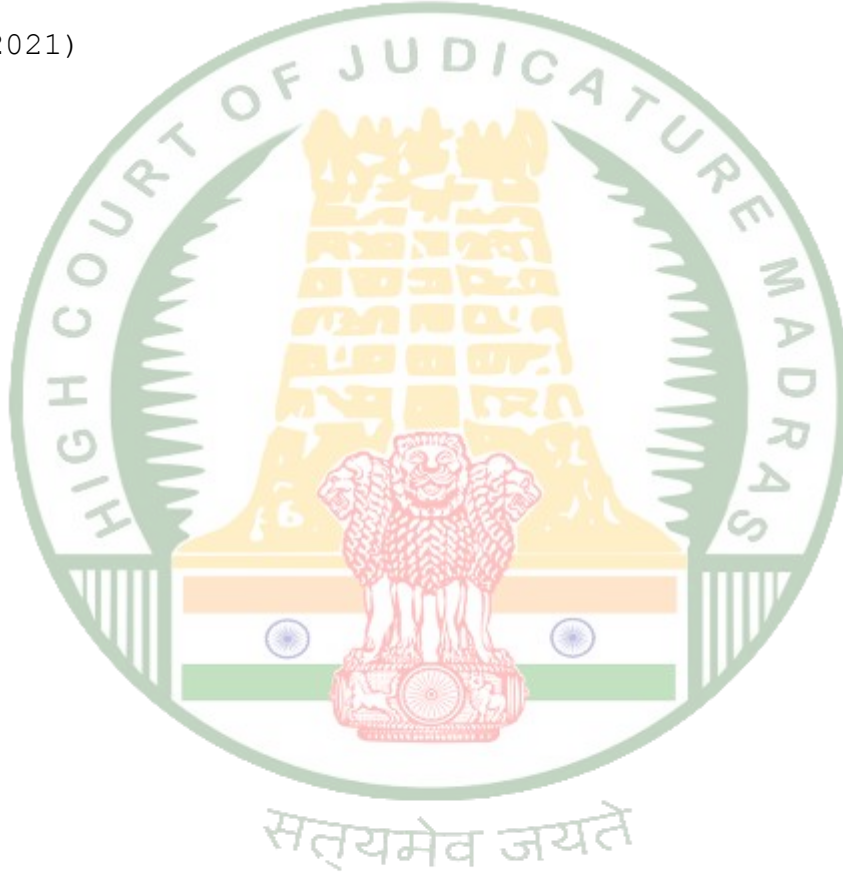
The Sub Registrar,
Needamangalam,
Thiruvarur District.

+1cc to Mr.P.Paramasivadass, Advocate, S.R.No. 24586

+1cc to the Government Pleader, S.R.No. 25032

W.P.No.20441 of 2020

SSD(CO)
GN(17/06/2021)



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