



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.5179 OF 2017

AND

W.M.P NO.5491 OF 2017

1. E.Shanthi
2. P.Sethuraman

... Petitioners

-Vs-

1. The Inspector General of Registration,
Inspector General Office,
No.120, Santhome High Road,
Chennai - 600 026.
2. The District Registrar,
Dharmapuri.
3. The Sub Registrar,
Kadathur,
Government Higher Secondary School Road,
Kadathur Town & Post - 635 303,
Pappireddipatti Taluk,
Dharmapuri District.
4. M.Vadivel
5. M.Manivannan
6. K.P.Shanmugam
7. D.Balaji
8. D.Rathinavelu
9. Gowtham Jeyakumar Siddaharth

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the third respondent pertaining to the Check Slip dated 13.02.2017 & quash the same and consequently direct the third respondent to register & release the Sale Deed dated 13.02.2017 in respect of the property situated in Survey No.354, Maniampadi Village, Pappereddipatti Taluk, Dharmapuri District.



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For Petitioners : Mr.P.Valliappan

For Respondents

For R1 to R3 : Mr.Richardson Wilson
Government Advocate

For R4 to R9 : No appearance

ORDER

This Writ Petition has been filed to call for the records of the third respondent pertaining to the Check Slip dated 13.02.2017 & quash the same and consequently direct the third respondent to register & release the Sale Deed dated 13.02.2017 in respect of the property situated in Survey No.354, Maniampadi Village, Pappereddipatti Taluk, Dharmapuri District.

2. The case of the petitioners is that the first petitioner executed sale deed dated 13.02.2017 in favour of the second petitioner in respect of the property situated in S.No.354, Maniampadi Village, Pappireddipatti Taluk, Dharmapuri District and presented the same for registration before the third respondent. However, the third respondent refused to register the same and returned the Check Slip dated 13.02.2017 for the reason that the respondents 4 to 9 herein have registered an Agreement for Sale, in respect of the very same property vide document No.1559/2013. Further revealed that in this regard, a suit in O.S.No.39 of 2014 is pending on the file of the District Munsif Court, Pappireddipatti, Dharmapuri District. According to the petitioners, the respondents 4 to 9 have no right or title over the property and the suit itself is vexatious and fabricated one. Admittedly, there is no interim order granted in the said suit as against the registering authority. In fact, the registering authorities are not party to the said suit. Hence, the petitioners filed this present Writ Petition with the above said prayer.

3. Heard Mr.P.Valliappan, learned counsel appearing for the petitioners and Mr.Richardson Wilson, learned Government Advocate appearing for the respondents 1 to 3.

4. Admittedly the first petitioner has title over the subject property and he executed the sale deed in favour of the second petitioner for valid sale consideration and presented the same for registration. The third respondent refused to register the document for the reason that the respondents 4 to 9 have filed suit in O.S.No.39 of 2014 and the same is pending on the file of the District Munsif Court, Pappireddipatti, Dharmapuri



District and also stated that they have executed agreement for sale and registered the same vide document No.1559/2013 dated 15.10.2013.

5. In this regard, the learned counsel appearing for the petitioners submitted that the pendency of any suit is not impediment for the registering authority to register the document, when the title is in favour of the executant. Mere pendency of the suit is not impediment or legal obstacle for registering sale deed, since there is no interim order as against the registering authority. In support of his contention, he relied upon the judgment reported in 2021 1 CTC 535 in the case of Vadamugam Vellode Nalukarai Nattu Goundergal Sangam Vs. Inspector General of Registration and Ors., in which this Court held that the registering authority is being statutory authority, who has to strictly perform his function in accordance with law. Unless and otherwise a Competent Civil Court passes any Interim Order restraining the alienation of the property, the registering authority has to entertain the documents and register the same, if it is otherwise in order. Ultimately, even if the suit is decreed, the transaction will be subject to the Rule of lis pendens. There is no law in force which says that no transaction can take place during the pendency of the Suit.

6. He also relied upon the judgment of the Hon'ble Division Bench of this Court reported in 2020 6 CTC 697 in the case of N.Ramayee vs. The Sub-Registrar, Registration Department and Ors., which held that if transfer is made during a pending suit, such transfer is not void but is subject to the result of the suit. Section 53 of the Transfer of Property Act, deals with fraudulent transfer. Even such fraudulent transfer is made with intent to defeat or delay the creditors of the transferor shall be voidable at the option of any creditor so defeated or delayed. Even in such cases the rights of transferee in good faith and for consideration is protected. Further held that if 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. In view of the above dictum laid down by this Court, the third respondent 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. Hence, the above judgments are squarely applicable to the present case and the impugned



Check Slip dated 13.02.2017 cannot be sustained as against the petitioners and it is liable to be set aside.

8. Accordingly, the Check Slip dated 13.02.2017 issued by the third respondent is hereby quashed. The petitioners are directed to file an affidavit to the effect that in the pending suit in O.S.No.39 of 2014, on the file of the District Munsif Court, Pappireddipatti, Dharmapuri District, there is no interim injunction in respect of the subject property. On such filing, the third respondent is directed to register the sale deed presented by the petitioners dated 13.02.2017, if it is otherwise in order, within a period of six weeks from the date of filing of the above said affidavit.

9. With the above directions, the Writ Petition is allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Inspector General of Registration,
Inspector General Office,
No.120, Santhome High Road,
Chennai - 600 026.
2. The District Registrar,
Dharmapuri.
3. The Sub Registrar,
Kadathur,
Government Higher Secondary School Road,
Kadathur Town & Post - 635 303,
Pappireddipatti Taluk,
Dharmapuri District.

+1cc to Mr.P.Valliappan, Advocate, S.R.No.54824
+1cc to the Government Pleader, S.R.No.55066

W.P.NO.5179 OF 2017 AND
W.M.P.NO.5491 OF 2017

SV-I(CO)
PBS/22/11/2021