



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2021

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.27642 of 2021

C.P.Arul Prakash

... Petitioner

Vs

1. The District Registrar (Registration Department),
Office of the District Registrar,
Coimbatore District Collectorate Complex,
Coimbatore.

2. The Sub Registrar,
Anaimalai Sub Registrar Office,
Anaimalai,
Anaimalai Taluk,
Coimbatore District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the second respondent to register the sale deed in T.P.No.105868025/2021 dated 30.09.2021 and presented on 30.09.2021 and return the original document of sale deed after due registration to the petitioner.

For Petitioner : Mr.Purushothaman

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This writ petition is filed to issue a Writ of Mandamus, to direct the second respondent to register the sale deed in T.P.No.105868025/2021 dated 30.09.2021 and presented on 30.09.2021 and return the original sale deed after due registration to the petitioner.

2. The petitioner purchased the properties comprised in
S.No.11/1A1 ad-measuring an extent of 0.95.50 hectares,
S.No.11/1A7 ad-measuring an extent of 0.54.50 hectares,
S.No.11/1A5, ad-measuring an extent of 0.05.0 hectares and



S.No.11/1A6 ad-measuring an extent of 0.06.87 hectares, situated at Odaiyakulam Village, Anaimalai Taluk Coimbatore District from Ramasamy, Palanichamy, Ranganathan and Vijayalakshmi, by the sale deed dated 30.09.2021. The said sale deed was presented for registration on payment of requisite stamp duties as well as registration fees. However, the second respondent orally informed the petitioner as if there were "attachment before judgment" ordered by the District Munsif Court, Pollachi and the Subordinate Court, Pollachi and as such, the second respondent refused to register the same and returned the document to the petitioner. On verification, it was found that there is a reflection about "attachment before judgment" order passed on 29.08.2000, 29.08.2000 and 07.09.2000 by the District Munsif Court, Pollachi and dated 13.06.2001 passed by the Subordinate Court, Pollachi. The said four "attachment before judgment" orders have been passed in O.S.No.272 of 2000, O.S.No.271 of 2000 and O.S.No.213 of 2000 on the file of the District Munsif Court, Pollachi and O.S.No.205 of 2000 on the file of the Subordinate Court, Pollachi. Subsequently, the suit in O.S.No.272 of 2000 was dismissed for default on 25.07.2001. In O.S.No.271 of 2000, an ex-parte decree was passed on 17.12.2002 and attachment itself has been raised on 15.11.2017. In O.S.No.213 of 2000, an ex-parte decree was passed on 22.02.2001 and in O.S.No.205 of 2000, an ex-parte decree was passed on 22.02.2001. However, till date, no execution petition has been filed by the decree-holders on the strength of the ex-parte decree dated 22.02.2001. The decree was passed in the money suit and it ought to have been executed within a period of 12 years and as such, now it is clearly barred by limitation and when the very execution of decree itself is barred by limitation, no "attachment before judgment" is pending as against the subject property.

3. In this regard, it is relevant to rely upon a judgment of this Court in W.P.No.36079 of 2015, dated 04.03.2016 (S.Praveen Bohra vs. Joint-I Sub-Registrar) and this Court held that it is well settled principle of law that the order of attachment cannot be a bar to register the document. The sale of the subject property, pending the order of attachment is void only as against the claims enforceable under the order of said attachment and not in respect of other claims. Therefore, the sale of the property attached cannot be construed as illegal sale. The decree holder can very well proceed as against the property.

4. In view of the above, the petitioner is directed to re-present the sale deed for registration before the second respondent and on receipt of the same, the second respondent is directed to register the said document and release the same forthwith, if it is otherwise in order.



5. With the above direction, this Writ Petition is disposed of. No costs.

WEB COPY

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

kv

To

1. The District Registrar (Registration Department),
Office of the District Registrar,
Coimbatore District Collectorate Complex,
Coimbatore.
2. The Sub Registrar,
Anaimalai Sub Registrar Office,
Anaimalai,
Anaimalai Taluk,
Coimbatore District.

+1cc to Mr.M.Purushothaman, Advocate SR.No.69487

+1cc to Government Pleader SR.No.69794

W.P.No.27642 of 2021

PA(CO)
GMY(12/01/2022)