

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 22.04.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.27213 of 2017 and
W.M.P.No.29084 of 2017

1. Muthu

2. P.Sakthi

3. Mathammal

4. Madesh

.... Petitioners

Vs.

1. Inspector General of Registration
Santhome,
Chennai - 600 004.

2. The District Registrar
Integrated Sub Registrar's Office,
Dharmapuri - 635 001.

3. The Sub Registrar
Palacode,
Dharmapuri District.

4. The Tahsildar
Pennagaram Taluk,
Pennagaram.

5. Perumal

6. Chinnavan

7. Palani

... Respondents

Prayer : Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus, forbearing the respondents 2 and 3 in any manner registering any documents submitted by the respondents 5 to 7 through third parties or

legal heirs in respect of the lands comprised in S.Nos.378/1, 378/2, 377/1A and 377/1C situated at Pikkili village, Pennagaram Taluk, Dharmapuri District more particularly described in the protest petition No.24/2017 on the file of the third respondent without notice to the petitioners.

For Petitioners : Mr.G.Ethirajulu
For Respondents 1 to 3 : Mr.P.Purushothaman
Government Advocate
For 4th Respondent : Mr.J.Pothiraj
Special Government Pleader

ORDER

The prayer sought for herein is for a writ of mandamus, forbearing the respondents 2 and 3 in any manner registering any documents submitted by the respondents 5 to 7 through third parties or legal heirs in respect of the lands comprised in S.Nos.378/1, 378/2, 377/1A and 377/1C situated at Pikkili village, Pennagaram Taluk, Dharmapuri District more particularly described in the protest petition No.24/2017 on the file of the third respondent without notice to the petitioners.

2. The simple case of the petitioner is, in respect of property of lands comprised in Survey Nos.378/1, 378/2, 377/1A and 377/1C situated at Pikkili village, Pennagaram Taluk, Dharmapuri District, it is the joint ownership of the petitioners as well as the respondents 5 to 7. However, the respondents 5 to 7, according to the petitioners, are trying to sell the entire property to and in favour of the third parties, for which, according to the reliable information received by the petitioners, they had a negotiation with third parties and accordingly, at any time, they may involve in selling the entire property to third parties, for which, if at all any documents are submitted by the private respondents to the third respondent, i.e., the Registering Authority, the same shall not be registered without giving any notice to the petitioner.

3. In this regard, as per the procedure in vogue, a protest petition has already been submitted to the third respondent and even though such a protest petition has been submitted to the third respondent enabling the third respondent to issue notice to the petitioners before registering any document in respect of the subject land referred to above since nothing has come from the third respondent, apprehending that the third respondent might be involving in registering the document without noticing the objection made by the petitioners through the protest petition, this writ petition has been filed in the year 2017.

4. The learned counsel appearing for the petitioners would further submit that, however during the pendency of the writ petition, counter affidavit has been filed on behalf of the third respondent. Among other things, the third respondent has stated in the counter at para 4 which reads thus:

"It is humbly submitted that if any document presented before the third respondent for Registration in the above said S.No, the third respondent will issue notice to the petitioner and other aggrieved person and conduct detailed enquiry as per the Registration Act and pass appropriate orders in accordance with law."

5. Relying upon the said averments made by the third respondent in the counter affidavit, the learned counsel appearing for the petitioners would fairly submit that, in view of the said definite stand taken by the third respondent that notice would be given to the petitioners before making any registration of the document pertaining to the land in question from the private respondents or any one else, the right of the petitioners definitely would be ensured to be protected and therefore, recording the said stand of the third respondent, this writ petition can be disposed of, he contended.

6. Heard Mr.P.Purushothaman, learned Government Advocate appearing for the official respondents, especially the third respondent, who would submit that, as rightly pointed out by the learned counsel appearing for the petitioner, the stand of the third respondent is that, certainly notice would be given to the petitioners before making any registration of the document in respect of the land in question from the private respondents or any other persons and in this regard, the said stand taken by the third respondent since holds good now, recording the same, this writ petition can be disposed, he contended.

7. There is no representation for the private respondents.

8. Having considered the said aspect and heard the learned counsel appearing for the parties and taking note of the stand taken by the third respondent as has been reflected in the counter affidavit of the third respondent which has been quoted herein above, this Court is of the view that this writ petition can be disposed of with the following orders :

That the third respondent can strictly enforce the stand taken by the third respondent in para 4 of the counter affidavit quoted herein above, by thus, whenever documents, if any submitted for registration or to make any encumbrance in respect of the

property in question, due notice shall be served on the petitioners and other owners, who made joint claim in respect of the property in question and accordingly, after conducting an enquiry, the needful shall be done with regard to the registration of document.

9. It is further made clear that, even though it was claimed by the learned counsel appearing for the petitioners that, already there has been a protest petition filed sometime in the year 2017 and has already been numbered as 24 of 2017, as an abundant caution one more protest petition can be filed by the petitioners afresh reiterating the stand of the petitioners vis-a-vis, the present stand taken by the third respondent as reflected in the counter, which would be helpful to the present incumbent who is holding the office of the third respondent, as directed above.

10. With these directions and observation, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Sgl/tsvn

To

1. The Inspector General of Registration,
Santhome,
Chennai - 600 004.

2. The District Registrar
Integrated Sub Registrar's Office,
Dharmapuri - 635 001.

3. The Sub Registrar
Palacode,
Dharmapuri District.

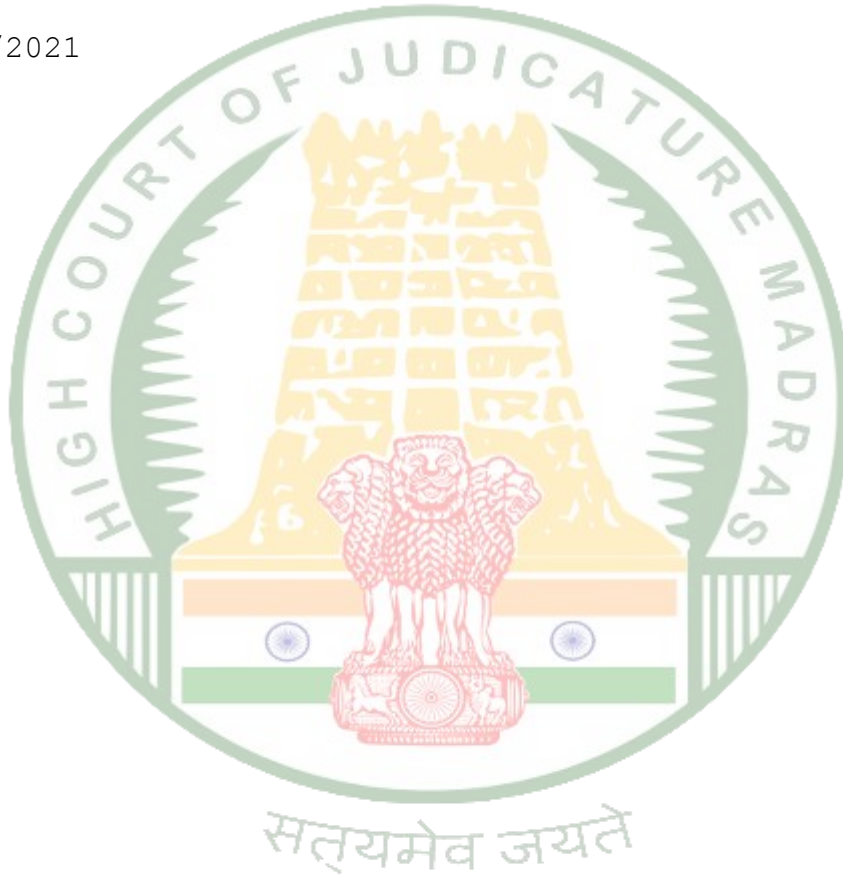
4. The Tahsildar
Pennagaram Taluk,
Pennagaram.

+1cc to the Government Pleader Sr.24997 and 25025

+1cc to Mr.G.Ethirajulu, Advocate Sr.24553

W.P.No.27213 of 2017

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