



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) No.2522 of 2021

(Through Video Conference)

Kamalaveni

...Petitioner

Vs.

The Sub Registrar,
Office of the Sub Registrar,
Vallam,
Thanjavur District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the Check Slip issued by the respondent in RFL/Vallam Thanjavur /149/2020 dated 18.12.2020 and to quash the same and consequentially direct the respondent to register the document as in the manner which is presented before him.

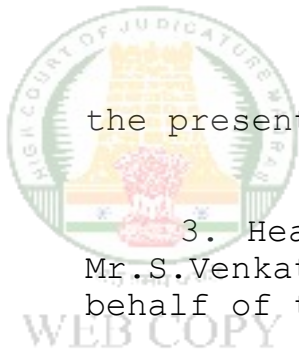
For Petitioner : Mr.Isaac Mohanlal,
Senior Counsel
For Mr.S.Venkatesan

For Respondent : Mr.K.Sathiya Singh

O R D E R

This Writ Petition has been filed challenging the impugned refusal Check Slip issued by the respondent, wherein the respondent refused to register the documents submitted by the petitioner on the ground that a suit is pending in O.S.No.137 of 2020 on the file of the First Additional District Judge (PCR), Thanjavur.

2. The case of the petitioner is that the subject property was settled in her favour by her husband, by virtue of a registered settlement deed, dated 16.08.2016. Thereafter, the petitioner also got her name mutated in the revenue records. The petitioner wanted to deal with this property and hence, she executed a sale deed on 18.12.2020 in favour of one Arokia Arul. When this document was submitted for registration before the respondent, the respondent refused to register the document only on the ground that, there is a suit pending in O.S.No.137 of 2020 on the file of the First Additional District Judge (PCR), Thanjavur. Aggrieved by the same,



the present writ petition has been filed before this Court.

3. Heard Mr. Isaac Mohanlal, learned senior counsel assisted by Mr. S. Venkatesan and Mr. K. Sathiyasinh, learned counsel appearing on behalf of the respondent.

4. The respondent has filed a counter affidavit and has taken a stand that there is a suit pending before the competent Civil Court touching upon the subject property and therefore, no registration can be entertained till the disposal of the suit.

5. In the considered view of this Court, the impugned refusal Check Slip is unsustainable in law. There is absolutely no bar for a party to deal with the property, even during the pendency of a suit. This is of course subject to interim orders, if any, passed during the pendency of the suit, restraining such transfer of property. In the present case, admittedly, no interim order has been passed.

6. The Hon'ble Supreme Court in the judgment in **Hardev Singh vs. Gurmail Singh** reported in (2007) 2 CTC 78 has categorically held that a transaction that takes place during the pendency of the suit, at the best will be hit by the rule of Lis Pendens and the same will not automatically result in rendering the transaction 'void' or 'illegal'. The transaction will only be subject to the result of the litigation and the parties will be bound by the result in the litigation. This position has been reiterated by the Hon'ble Supreme Court in **T. Ravi and another vs. B. Chinna Narasimha and others** reported in (2017) 7 SCC 342.

7. In view of the above, the respondent ought not to have refused to register the document only on the ground that a suit is pending before a competent Civil Court. Such a refusal, in fact, will amount to abdication of a statutory duty imposed on the respondent under the relevant Enactment.

8. In view of the above discussion, this Court has absolutely no hesitation to interfere with the impugned refusal Check Slip issued by the respondent, dated 18.12.2020 and the same is hereby quashed. The respondent is directed to entertain the sale deed presented for registration and the same shall be registered, subject to payment of the stamp duty and registration charges. The documents shall also be released after it is registered.



9. This Writ Petition is allowed with the above directions. However, there shall be no order as to costs.

WEB COPY

// True Copy //

Sd/-

Assistant Registrar (CS-I)

/ /2021

Sub Assistant Registrar(CS)

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

The Sub Registrar,
Office of the Sub Registrar,
Vallam,
Thanjavur District.

+1 CC to M/s.SPL GP (SR-15647[F] dated 09/04/2021)

+1 CC to M/s.VENKATESAN, Advocate (SR-15766[F] dated 15/04/2021)

Order made in
W.P. (MD) No.2522 of 2021
Dated:08.04.2021

AK(26/02/2021) 3P 4C