



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. [MD]No.874 of 2021

WEB COPY

K.Radhakrishnan

... Appellant / Petitioner

Vs.

1.The District Registrar,
Registrar Office,
Combined Court Building,
Cantonment,
Trichirappalli.

2.The Sub Registrar,
Sub Registrar's Office,
Lalgudi, Lalgudi Taluk,
Trichirappalli District.

... Respondents / Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 01.03.2021 made in W.P.[MD] No.1516 of 2021 on the file of this Court.

For Appellant	: Mr.K.S.Kathiravan,
For Respondents	: Mr.K.P.Krishnadoss,
	Special Government Pleader
	and
	Mr.K.Sathiya Singh,
	Additional Government Pleader

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

We have heard Mr.K.S.Kathiravan, learned Special Government Pleader appearing for the appellant and Mr.K.P.Krishnadoss, learned Special Government Pleader and Mr.K.Sathiya Singh, learned Additional Government Pleader appearing for the respondents.

2.This writ appeal filed by the Appellant is directed against the order, dated 01.03.2021 passed in W.P.[MD]No.1516 of 2021.

3.The appellant challenged the communication of the second respondent, dated 12.03.2020, refusing to register a document styled as a sale deed, dated 11.03.2020, in favour of one Smt.Syamala, which was presented for registration on the very same day. The refusal slip is a computer generated information and the reason for refusal is stated to be on account of a suit in O.S.No.90 of 2016 on

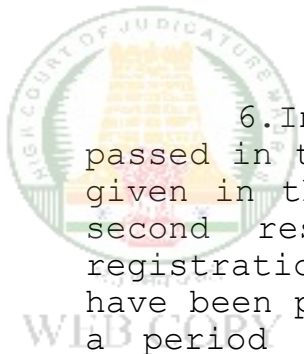


the file of the II Additional Subordinate Court, Trichirappalli. The learned Writ Court dismissed the writ petition on the ground that the appellant should work out his rights before a Civil Court. The correctness of the said order is challenged in this Appeal.

4. After elaborately hearing the learned counsels for the parties and carefully perusing the materials placed on record, we find that the relief sought for by the appellant was justified and there appears to be no civil dispute, to which, the appellant has been dragged on and the said suit can have no impact on the sale deed executed by the appellant.

5. We support such conclusion with the following reasons :

We would like to preface our reasons by observing that we have not gone into title to the property which is not expected to be gone into a proceedings under Article 226 of the Constitution of India and we have proceeded solely by perusing the documents which have been placed before this Court. The suit in O.S.No.90 of 2016 has been filed by Minor.Aswanth, represented by his father as a natural guardian V.K.Vinoth Kumar. The suit is for partition claiming 1/8th share in the suit schedule property. An ex-parte decree has been passed on 31.01.2020. This is cited to be the reason for refusing to register the document. Had the second respondent conducted a brief enquiry, he would have definitely registered the document. Since no enquiry was conducted, mechanically the issue has been dealt with. The impugned refusal slip had been issued. The appellant purchased the property in question, which is an extent of 3718 sq. ft. (167.22 sq. mtr.) in a lay out called "Sri Raghaventhra County" and he had purchased the plot No.37 in the layout. The appellant purchased the property by sale deed, dated 15.07.2010, registered as a Document No.2717 of 2010 on the file of Sub Registrar, Lalkudi. The vendors of the appellant are: 1) T.Thiruvengadam, 2) Tmt.Saranya, 3.Tmt.Suganya, 4.Tmt.Maheswari and 5.Minor.Iswarya. They have joined together and appointed a Power Agent, Tmt.Padma W/o.N.Damodharan. The third vendor namely, Tmt.Suganya is the mother of the Minor Plaintiff Aswanth, who died prior to the filing of the suit. As mentioned above, the suit is one for partition claiming 1/8th share in several properties. The property purchased by the appellant in the year 2010, has not been specifically mentioned as a suit schedule property in the suit filed during 2016. The sale deed, dated 15.07.2010, executed in favour of the appellant, has not been challenged in the suit. The plaintiff - a minor, represented by his father, had filed the suit in the year 2016, after the death of his mother, who was one of the vendors, who joined together with other vendors, to execute the sale deed. Therefore, the decree passed in O.S.No.90 of 2016 cannot be an impediment for accepting the sale deed presented by the petitioner for registration, which is being executed in favour of Tmt.Syamala. Therefore, the reasons given in the refusal slip are not sustainable.



6. In the result, the Writ Appeal is allowed and the order passed in the writ petition is set aside. Consequently, the reasons given in the refusal slip, dated 12.03.2020, are set aside and the second respondent is directed to accept the sale deed for registration and if appropriate stamp duty and registration charges have been paid, the document shall be registered and released within a period of one week from the date on which the document is presented for registration. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RM

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

1. The District Registrar,
Registrar Office,
Combined Court Building,
Cantonment,
Trichirappalli.

2. The Sub Registrar,
Sub Registrar's Office,
Lalgudi, Lalgudi Taluk,
Trichirappalli District.

+1 CC to M/s.K.S.KATHIRAVAN, Advocate (SR-17483[F] dated 26/04/2021)

JUDGMENT MADE IN
W.A. [MD] No.874 of 2021

22.04.2021

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