



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD).No.8300 of 2021

and

W.M.P.(MD).No.6282 of 2021

R.Vasudevan

... Petitioner

Vs.

1.The Sub Registrar,
Office of the Sub Registrar,
Kadayanallur,
Tenkasi District.

2.Ravichandran ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, forbearing the 1st respondent for entertaining the documents submitted by the 2nd respondent with regard to Survey Nos.241/2 to an extent of 1512.5 sq. ft. situated at Kadayanallur Village, Kadayanallur Sub Registrar Office, Tenkasi Registration District, pending suit in O.S.No.191 of 2020 on the file of Sub Court, Tenkasi and consequently, consider the representation, dated 26.03.2021.

For Petitioner : Mr.P.Athimoolapandian

For Respondent : Mr.K.Sathiyasingh for R1
Additional Government Pleader

ORDER

This writ petition has been filed for the issuance of writ of mandamus, directing the first respondent to consider the representation made by the petitioner, on 26.03.2021, wherein, the petitioner has given an objection to the first respondent not to register any documents presented by the second respondent.

2.The case of the petitioner is that the second respondent owes him nearly a sum of Rs.5,44,833/- and a suit has also been filed in O.S.No.191 of 2020 before the Sub Court, Tenkasi, for recovery of money. In the said suit, the petitioner has also filed a petition for Attachment before Judgment, in I.A.No.1 of 2020 and the same is pending. In the meantime, the second respondent attempted to alienate the property and deprive the petitioner from recovering the money. The petitioner, therefore, gave a protest petition before the first respondent and requested the first respondent not to



register any documents presented by the second respondent. According to the petitioner, the first respondent had issued notice to the parties and enquired, but however, no orders were passed and hence, the present writ petition has been filed before this Court.

3.Heard Mr.P.Athimoolapandian, learned counsel for the petitioner and Mr.K.Sathiya Singh, learned counsel for the first respondent.

4.In the considered view of this Court, the property in question is owned by the second respondent. The petitioner has a money claim against the second respondent. If at all, the second respondent is attempting to alienate the property and defeat the rights of the petitioner from recovering the money, the petitioner has to pursue further with the ABJ petition filed before the Court below. In fact, the petitioner has also filed an injunction suit against the second respondent in O.S.No.138 of 2020, before the Principal District Munsif Court, Tenkasi, seeking for the relief of permanent injunction against the second respondent and restrain him from alienating the house property. Therefore, the petitioner was clear about approaching the competent Civil Court to safeguard his rights. However, the petitioner is also parellaly moving the first respondent by giving his protest petition, requesting the first respondent not to register any document presented by the second respondent.

5.The petitioner cannot be allowed to parellaly pursue his remedy before the first respondent also, more particularly, when the proceedings are pending before the Civil Court. The petitioner has to necessarily workout his remedy only before the Civil Court and the first respondent cannot intervene in the matter at this stage.

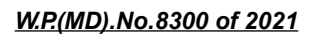
6.In view of the above, the relief sought for by the petitioner cannot be granted by this Court and it is left open to the petitioner to work out his remedy before the Civil Court, where, proceedings are pending. The sub Court, Tenkasi, is directed to dispose of the I.A.No.1 of 2020 in O.S.No.191 of 2020, after giving an opportunity to the petitioner and the second respondent, within a period of six weeks from the date of receipt of a copy of this order.

7.This writ petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.E.)

// True Copy //



To

22.04.2021