



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.10377 of 2021

A.Antony Joseph

...Petitioner

Vs.

1. The Sub-Registrar,
Valliyoore,
Tirunelveli.

2. P.Rathi Pushpam

3. P.Vijayakumar

.... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to release the original sale deed registered before the first respondent in pending Document No.4 of 2021, dated 10.06.2021 to the petitioner within the time fixed by this Court.

For Petitioner : Mr.H.Arumugam

For R1 : Mr.R.Sureshkumar
Government Advocate

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the first respondent to release the original sale deed registered on 10.06.2021 within the time limit stipulated by this Court.

2. The case of the petitioner is that the third respondent entered into an agreement of sale with the second respondent on 11.12.2020. According to the petitioner, the third respondent did not fulfil his obligation in the sale agreement. Hence, the second respondent came forward to sell a portion of the property to the petitioner for a total sale consideration of Rs.75 Lakhs. It is stated that the petitioner has paid the entire sale consideration and a sale deed was executed in his favour by the second respondent on 10.06.2021 and it was presented for registration before the first respondent on the same date. The grievance of the petitioner is that the document was registered and it was kept pending based on the objections received from the third respondent on the ground that the third respondent is an agreement holder. Based on the objections made by the third respondent, the first respondent also called the parties for an enquiry through notice, dated 10.06.2021. The apprehension of the petitioner is that the first respondent



wants to send the parties before a Civil Court without registering and releasing the document only based on the objections made by the third respondent, who is an agreement holder. Aggrieved by the same, the present Writ Petition has been filed before this Court.

3. Heard Mr.H.Arumugam, learned counsel appearing for the petitioner and Mr.R.Suresh Kumar, learned Government Advocate appearing for the first respondent.

4. The issue raised by the learned counsel appearing for the petitioner has been dealt with by the Hon'ble Division Bench of this Court in the case of **N.Ramayee Vs. Sub Registration Department, Valapady, Salem** reported in **2020 5 LW 385**. The Division Bench has categorically held that a mere agreement of sale by itself cannot be a bar for the owner of the property to deal with his property and at the best, such a transaction can be subjected to the final result of the suit instituted by the agreement holder seeking for the relief of specific performance. This Judgment has been followed by this Court in many subsequent orders passed by this Court and one such order was brought to the notice of this Court by the learned counsel appearing for the petitioner in W.P.(MD).No.6389 of 2020, dated 20.07.2020.

5. In view of the above discussion, if the first respondent has conducted the enquiry only based on the objections made by the third respondent that he is an agreement holder and therefore, the second respondent cannot deal with the property and execute a sale deed in favour of the petitioner, such an objection is unsustainable, in view of the Judgment referred supra. The third respondent must necessarily be directed to work out his remedy only before the competent Civil Court by filing a suit for specific performance.

6. In view of the above, the first respondent shall take into consideration the findings made by this Court in this Writ Petition and shall register the sale deed, dated 10.06.2021, if it is otherwise in order and the necessary stamp duty and registration charges have been paid.

7. This Writ Petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /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,
Valliyoor,
Tirunelveli.

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-19852[F] dated 22/06/2021)
+1 CC to M/s.SPL GP (SR-19930[F] dated 22/06/2021)

Order made in
W.P. (MD) .No.10377 of 2021
Dated: **21.06.2021**

PM(CO)
TR(01.07.2021) 3P 4C