



BEFORE THE MADURAI BENCH OF MADRAS HIGH Court

DATED: 30.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WEB COPY

W.P.(MD)No.10788 of 2021
and WMP(MD) No.8423 of 2021
(Through Video Conferencing)

Kalvath

... Petitioner

Vs.

1.The District Registrar
Tirunelveli District
Tirunelveli.

2.The Sub Registrar,
Sub Registrar Office,
Melapalayam
Tirunelveli District.

3.The Assistant Commissioner of Police,
Tirunelveli City, Tirunelveli

4.The Inspector of Police,
City Crime Branch,
Tirunelveli City, Tirunelveli.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 2nd respondent in Refusal number:RFL/Melapalayam/33/2021 dated 14.06.2021 and quash the same and further directing the 2nd respondent to register the settlement deed dated 14.06.2021 presented by the petitioner in respect of the property in Plot Nos.79,80, 81 situated in S.No.13/1, Sithk Nagar, Melapalayam Village, Palayamkottai Taluk, Tirunelveli District.

For Petitioner :Mr.C.Susikumar
For Respondents :Mr.M.Lingadurai
Government Advocate

ORDER

On consent given by either side, the writ petition itself is taken up for final hearing.

2. The subject matter of challenge in the present writ petition is the impugned refusal check slip issued by the second respondent dated 14.06.2021, wherein, the settlement deed that was presented



for registration was refused to be registered on the ground that a letter has been received from the Assistant Commissioner of Police not to register any document and there is a Crl.O.P. pending before this Court.

3. Heard the learned counsel for the petitioner and the learned Government Advocate appearing on behalf of the respondents.

4. The case of the petitioner is that the subject property was originally owned by his father by virtue of a registered sale deed dated 28.04.1992, which was registered as Document No.789/92. The further case of the petitioner is that on the demise of his father, the petitioner and other legal heirs became the absolute owner of the property.

5. The further case of the petitioner is that a police complaint came to be given by some of the family members and hence, an FIR was registered on the file of the City Crime Branch in Crime No.58/2020 against 5 named accused persons for offence under Sections 465, 467, 468 and 471 IPC. The crux of the complaint before the police is that the sale deed that was executed in the year 1992 in favour of the father of the petitioner is a forged document. This FIR has become a subject matter of challenge before this Court in Crl.O.P.(MD) No.14837/2020 and at Paragraph 5 of the affidavit, it is stated that this Court has already granted interim stay by an order dated 16.12.2020. While so, the petitioner executed a settlement deed in favour of his brother with respect to the subject property in Plot Nos.79, 80 and 81 situated in Sathik Nagar, Tirunelveli District. When this document was presented for registration before the second respondent, the second respondent issued the impugned refusal check slip. Aggrieved by the same, the present writ petition has been filed before this Court.

6. This Court has repeatedly held that the registering authority cannot be prevented from performing the statutory duty merely by a letter issued by the police. In the present case, the Assistant Commissioner of Police seems to have sent a letter to the second respondent not to register any document pertaining to the subject property. The police do not possess any such rights to issue a letter to a registering authority and direct not to register any documents. Even under the Code of Criminal Procedure, Section 102 of Cr.P.C., only enables the police to attach or seize any movable properties and the Hon'ble Supreme Court in ***Nevada Properties Pvt., Ltd., v. State of Maharashtra and others*** reported in ***2019(4) MLJ (Crl) 456*** has categorically held that this power cannot be extended to immovable properties. The letter that was sent by the Assistant Commissioner to the second respondent virtually amounts to attaching the immovable property and therefore, it is beyond the powers vested on police under the Code of Criminal Procedure.



7. In view of the above discussion, this Court has absolutely no hesitation to interfere with the impugned refusal check slip issued by the second respondent and accordingly, the same is hereby quashed. There shall be a direction to the second respondent to entertain the documents, if it is otherwise in order and the necessary stamp duty and registration charges are paid. The document shall be released immediately after registration.

8. This writ petition is allowed with the above direction. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

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
Tirunelveli District
Tirunelveli.
- 2.The Sub Registrar,
Sub Registrar Office,
Melapalayam
Tirunelveli District.
- 3.The Assistant Commissioner of Police,
Tirunelveli City, Tirunelveli
- 4.The Inspector of Police,
City Crime Branch,
Tirunelveli City, Tirunelveli.

+1 CC to M/s.C.SUSIKUMAR, Advocate (SR-20607[F] dated 30/06/2021)

+1 CC to M/s.SPL GP (SR-20912[F] dated 01/07/2021)

W.P. (MD)No.10788 of 2021

30.06.2021

AS (07.07.2021) 3P 7C