



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2022

CORAM

THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.No.994 of 2022

S.Jageer Husian

... Petitioner

Vs

The Sub Registrar,
Uthangarai, Uthangarai Taluk,
Krishnagiri District

... Respondent

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for records pertaining to the proceedings of the respondent in Ref.No.RFL/Uthangarai/ 120/2021 dated 12.10.2021 and quash the same and consequently direct the respondent to register the sale deed dated 11.10.2021 presented by the petitioner in accordance with provision of the Registration Act, 1908.

For Petitioner : Mr.S.Viswanathan

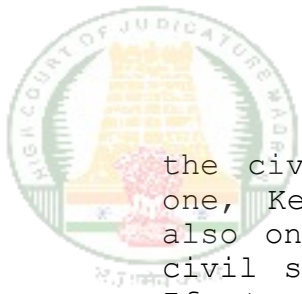
For Respondent : Mr.Yogesh Kannadasan,
Special Government Pleader

ORDER

This writ petition is filed to issue a Writ of Certiorarified Mandamus calling for records pertaining to the proceedings of the respondent in Ref.No.RFL/Uthangarai/ 120/2021 dated 12.10.2021 and quash the same and consequently direct the respondent to register the sale deed dated 11.10.2021 presented by the petitioner in accordance with provision of the Registration Act, 1908.

2. Heard, Mr.S.Viswanathan, the learned counsel for the petitioner, and Mr.Yogesh Kannadasan, Special Government Pleader appearing for the respondent.

3. The petitioner purchased the property from one Palani to an extent of 64 cents situated in Onnakarai Village, Uthangarai Taluk, Krishnagiri District. The said Palani executed sale deed in favour of the petitioner on 12.10.2021 and presented for registration before the respondent. However, the respondent refused to register the sale deed for the reason that



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the civil suit is pending between the petitioner's vendor and one, Kesavan in OS.No.58 of 2021, in which the respondent is also one of the party. It is settled law that pendency of the civil suit is not an impediment for transferring the property. If at all any transfer is made pending the suit, it would only hit by Section 52 of the Transfer of Property Act and governed by principles of lis pendens and the document could be termed as void or voidable. The suit filed by one, Kesavan as against the petitioner's vendor in OS.No.58 of 2021 is for bare injunction, in which the respondent is also one of the defendant. However, there is no restraining order as against the respondent from registering any document in respect of the subject property. That apart, as per Section 35 of the Registration Act, 1908, the duty cast upon the registering authority to verify the authenticity of the seller and purchaser who appeared before him for the purpose of registration and documents. Further, Rule 55 of the Registration Rules says that it is not the duty of the registering authority to go into the title of the vendor or validity of the documents on the ground that the vendor had no right to execute the document. Therefore, the respondent cannot refuse to register the sale deed presented for registration for the reason that there is a civil suit pending.

4. As stated supra, the suit filed by the said Kesavan is for only bare injunction and there is no restrain order passed as against the respondent from registering any document in respect of the subject property. When it being so, the respondent ought not to have refused to register the document which was presented for registration of the subject property.

5. In view of the above, the impugned order dated 12.10.2021 is set aside. The petitioner is directed to re-present the sale deed dated 11.10.2021 for registration and on receipt of the same, the respondent is directed to register and release the same forthwith, if it is otherwise in order.

6. With the above directions, this writ petition is allowed. No order as to costs.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

The Sub Registrar,
Uthangarai, Uthangarai Taluk,
Krishnagiri District

+1cc to Mr.Dass & Viswa Associates, Advocate, S.R.No.4199

+1cc to the Government Pleader, S.R.No.4767

WP.No.994 of 2022

MT (CO)
SU(18/02/2022)