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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.8380 of 2009

And

M.P.No.1 of 2009

Golden Jubilee Gardens Residents Welfare Association,
Rep. by its Secretary
S.Nedunchezian

... Petitioner

Vs.

1. The Sub Registrar,
Sub Registrar Office,
Pallavaram @ Chrompet,
Chennai - 600 044.

2. M/s.Guru Raghavendra Foundations Private Ltd.,
rep. by its Managing Director,
B.Murugeswaran

3. N.Premalatha
4. B.Shanthi
5. L.Kirubakaran
6. R.Thamayanthi
7. Sushil Kumar
8. Tara Devi
9. Kusum Latha Jain
10.Vishal Deep Jain
11.Neelam Jain

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the proceedings No.14/2008 dated 21.05.2008 on the file of the first respondent and quash the same and consequently forbear the first respondent from registering the sale document executed by the second respondent in favour of the third parties in respect of Survey No.361/6A2 to 361/6A11 of Zamin Pallavaram Village, Tambaram Taluk pursuant to the intimation of the Pallavaram Municipality.



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For Petitioner : Mr.K.Ragupathy
For Respondents : Mr.Yogesh Kannadasan for R1
Special Government Pleader
Dismissed against R4 & R5
vide order dated 21.09.2016

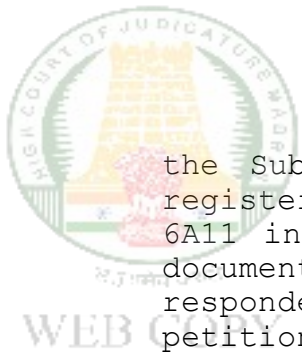
O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records relating to the proceedings No.14/2008 dated 21.05.2008 on the file of the first respondent and to quash the same and to consequently forbear the first respondent from registering the sale document executed by the second respondent in favour of the third parties in respect of Survey Nos.361/6A2 to 361/6A11 of Zamin Pallavaram Village, Tambaram Taluk pursuant to the intimation of the Pallavaram Municipality.

2.The case of the petitioner is that the petitioner is the Secretary of the Golden Jubilee Gardens Residents Welfare Association. The petitioner Association is a registered Association vide Registration No.351/2006 on the file of Sub - Registrar, Saidpaet and the members of the petitioner Association are working in various departments namely, State Government, Central Government, Public Sector Organizations and in private organizations and some of the members are retired employees of the above organizations.

3.The further case of the petitioner is that the second respondent issued advertisement inviting prospective buyers to purchase flats to be constructed in Survey Nos.361/6A2 to 361/6A11 of Zamin Pallavaram Village, Tambaram Taluk. Most of the members of the petitioner Association entered into agreement to purchase individual flat and the second respondent handed over the copy of the plan sanctioned by the competent authority and title documents to them. Thereafter, the members of the petitioner Association entered into possession of their respective flats on payment of the entire costs. Thereafter, the members of the petitioner Association came to know that the second respondent constructed the building by violating the norms and rules of the Chennai Development Building Rules.

4.The further case of the petitioner is that on 25.02.2008, the petitioner Association sent petition to the Pallavaram Municipality under the Right to Information Act and on 05.03.2008, the Pallavaram Municipality sent a communication to the Sub Registrar, Pallavaram dated 15.12.2005 calling upon him not to register the sale document in respect of Survey Nos.361/6A2 to 6A11. The petitioner also made representation to



the Sub Registrar on 26.03.2008 and other authorities not to register the undivided land comprised in Survey Nos.361/6A2 to 6A11 in favour of the purchaser on the basis of the fraudulent documents created by the second respondent. However, the first respondent issued the impugned proceedings. Hence, this writ petition.

5. Heard the arguments advanced on either side and perused the materials available on record.

6. The issue involved in the present case is no longer res integra. The issue involved in this writ petition has already been considered by this Court in its decision reported in 2021 (1) CTC 535 [Vadamugam Vellode Nalukarai Nattu Goundergal Sangam Vs. The Inspector General of Registration and Others], the relevant portion of which reads as follows:

"10. The 5th respondent has approached the Civil Court and he has filed O.S.No.48 of 2019, seeking for the relief of partition and separate possession of 1/27th share in the suit properties. It is also seen that the 5th respondent has filed yet another suit in O.S.No.58 of 2017 in which she has claimed for the relief of permanent injunction restraining the defendants not to alienate the suit properties. In both the suits, there is no order passed by the Competent Civil Court injuncting from dealing with the suit properties. What the 5th respondent was not able to achieve before the Civil Court is now sought to be achieved through the 3rd respondent by virtue of a letter given before this Court dated 21.02.2020. The 3rd respondent is a statutory authority, who has to strictly perform his function in accordance with law. This Court exercising its jurisdiction under Article 226 of Constitution of India can never prevent a statutory authority from performing his function. Therefore unless and otherwise a competent civil Court passes any interim order restraining the alienation of the property, the 3rd respondent has to entertain the documents and register the same, if it is otherwise in order. Ultimately, even if the suit is decreed, the transaction will be subject to the rule of lis pendens. There is no law in force which says that no transaction can take place



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during the pendency of the suit. That is exactly why Section 52 of the Transfer of Property Act, provides a solution for transactions that take place during the pendency of the suit.

11. In view of the above discussion, the impugned letter of the 3rd respondent dated 21.02.2020 is hereby quashed and the 3rd respondent is directed to entertain the documents submitted for registration and register the same, if it is otherwise in order. It goes without saying that the necessary stamp duty and registration fee will be paid at the time of submitting the document for registration."

7. In view of the decision cited supra, the prayer sought for in this writ petition cannot be granted. The writ petition is accordingly dismissed. However, liberty is granted to the petitioner to work out the remedy in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

True Copy//

Sub Assistant Registrar

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To

The Sub Registrar,
Sub Registrar Office,
Pallavaram @ Chrompet,
Chennai - 600 044.

+1cc to Mr.S.Saravanan, Advocate, S.R.No.33332

+1cc to the Government Pleader, S.R.No.34186

W.P.No.8380 of 2009

And

M.P.No.1 of 2009

RK[co]

NSK/04/07/2022