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W.P.No.21881 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.09.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.21881 of 2015
and MP.No.1 of 2015

Santha

..Petitioner

Vs.

- 1.The Government of Tamil Nadu,
rep.by its Secretary,
Registration Department,
Fort St.George,
Chennai 600 009.
- 2.The Inspector General of Registration,
Office of the Inspector,
General of Registration,
Chennai 600 028.
- 3.The District Registrar,
(Administration),
Tindivanam, Villupuram District.
- 4.The Sub Registrar,
Office of the Sub Registrar,
Vanur, Villupuram District.

...Respondents

Prayer:Writ petition has been filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus Calling for the records of the Sub Registrar Vanur the 4th Respondent herein culminating in the notice dated 08.06.2015 quash the same and further direct 4th respondent



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to register and release the sale deed dated 18.05.2015 presented to the 4th respondent for registration in respect of the land in New Survey No.20/2 Old No.29/2, 0.54, 39/1, 0.46, 1.00 on the northern side 0.25 cents in which an extent of 5 cents in Thiruchitrambalam Village, Vanur Taluk, Villupuram District, to the Petitioner forthwith.

For Petitioner : Mr.K.Balakrishnan

For Respondents : Mr.E.Vijay Anand
Additional Government Pleader

ORDER

This petition has been filed for issuance of writ of Certiorarified Mandamus to call for the records of the Sub Registrar, Vanur the 4th Respondent and quash the same and further direct 4th respondent to register and release the sale deed dated 18.05.2015 to the Petitioner forthwith.

2. The case of the petitioners is that the vacant land in New Survey No.20/2 0.40.5 an extent of 5 cents in Thiruchitrambalam Village, Vanur Taluk, Villupuram District, was purchased by the husband of the petitioner through a Sale Deed dated 16.09.1992 and her husband was died on 14.02.2015 and thereafter, as a legal heir, the petitioner has inherited the property and in possession and enjoyment of the same.



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During the month of May 2015, the petitioner decided to sell the land to one Gnaoli and thereby a Sale Deed was executed by the petitioner on 18.05.2015 and the same was presented for registration before the Sub Registrar. However the 4th respondent after verifying the papers, received the registration fee and kept the document as pending. On 08.06.2015, the 4th respondent has issued a notice to the petitioner, informed him to produce the parent document and encumbrance certificate and the patta, legal heirship certificate from the revenue authorities and also alleging that a case is pending in the Court and directed the petitioner also to get no objection certificate. Aggrieved by the said notice, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner submitted that in the absence of any restrained order, the 4th respondent refusing to entertain the document is not sustainable and he can refuse the document only in terms of Section 22A, 22B and 76 of the Registration Act and in the present case, without invoking the above said provisions, refusing to entertain the documents is not sustainable and prays for appropriate



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orders.

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4. This Court has carefully considered the submission of the learned counsel appearing for the petitioner and also perused the materials placed on record.

5. Considering the facts and circumstances of the case, this Court is of the opinion that the issue involved in the present case is no longer *res integra* as it has already been considered by the Hon'ble Division Bench of this Court in the decision reported in 2021 (1) CTC 535 (Vadamugam Vellode Nalukarai Nattu goundergal Sangam, rep.by its President K.Chinnasamy vs. Inspector General of Registration, Registration Department). For better clarity, it is relevant to extract paragraph nos.10 and 11 of the said judgment:

"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



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order passed by the Competent Civil Court injunction 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 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."

6. The present petition being on the identical issue, the order passed in the aforesaid case is squarely attracted to the present petition as



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well. For the reasons aforesaid, this writ petitions is allowed and the notice of the 4th respondent dated 08.06.2015 is quashed and the 4th respondent is directed to entertain the documents along with copy of parent title 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.

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To

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M.DHANDAPANI.,J.



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