



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.4428 of 2022

R.Rajesh

... Petitioner

Vs.

1.The District Registrar,
Office of the District Registrar - Salem West,
Collectorate, Salem District - 636 001.

2.The Sub Registrar,
Office of the Suramangalam Sub Registrar,
Suramangalam, Salem West,
Salem District - 636 005.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent to Register the Sale Deed dated 08.02.2022 presented by the petitioner in respect of his property situated at Ward C, Block -2, T.S.No.2/8A5, to an extent of 5445 Sq.ft, Alagapuram Pudur village, Suramangalam, Salem District in view of the petitioner representation dated 08.02.2022.

For petitioner : Mr.I.Abrar Mohamed Abdullah

For Respondents: Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

The petitioner has filed this petition seeking direction to the second respondent to register the Sale Deed dated 08.02.2022 presented by the petitioner in respect of his property situated at Ward C, Block -2, T.S.No.2/8A5, of an extent of 5445 Sq.ft, Alagapuram Pudur village, Suramangalam, Salem District, in view of the petitioner's representation dated 08.02.2022.

2. Mr.Yogesh Kannadasan, learned Special Government Pleader takes notice for the respondents. In view of the limited relief sought for in this petition and on the consent expressed by the learned counsel appearing on either side, this petition is taken up for final disposal.



3. The case of the petitioner is that the petitioner is the owner of the property comprised in Ward - C, Block - 2, T.S.No.2/8A5 measuring an extent of 5445 Sq.ft, situated at Alagapuram Pudur, Suramangalam, Salem District. The petitioner acquired the above property through a Release Deed, vide Document No.141/2013, dated 08.01.2013 on the file of the Sub Registrar, Suramangalam, Salem District. However, the petitioner made a representation on 08.02.2022, before the second respondent to register the Sale Deed. However, the said document was refused to be registered by the second respondent on the premise that an encumbrance Sale Agreement was pending against the said property. Hence, the present Writ Petition has been filed by the petitioner for the above relief.

4. The learned counsel for the petitioner submitted that even assuming that there is a Sale Agreement, it is not bar for Registration, and he has also relied upon a Division Bench of this Court in the case of N.Ramayee vs. Sub-Registrar, Registration Department and another reported in 2020 (6) CTC 697.

5. The learned counsel for the petitioner further submitted that, the decision of above said Division Bench is followed by a learned Single Judge of this Court in W.P.No. 14445 of 2021, order dated 27.07.2021. The relevant portion of the above said order of the learned Single Judge is extracted hereunder:

6. According to the petitioner, the one and only objection raised by the 2nd respondent for registering the document is that, a sale agreement is pending in respect of the same property. According to the petitioner, there is no sale agreement and there is also no encumbrance in the register showing any registration of sale agreement in respect of the said property and there is no encumbrance. As rightly contended by the learned counsel for the petitioner, even assuming that there is a sale agreement, it is not a bar for transferring the property. A Division Bench of this Court in the case of N.Ramayee /vs/ Sub-Registrar, Registration Department and another reported in 2020 (6) CTC 697, has held as follows :

"46. Accordingly, we answer the reference as follows:

If an agreement for sale is registered in respect of immovable property, the same will not be a bar for the owner of the property to effect subsequent transfers in respect of the same property. The Registrar has no right to refuse to register the document, except the documents relating to immovable properties mentioned in Section 22- A of the Tamil Nadu Act and as contemplated under Rule 162 of the Registration Rules."



7. Considering the above circumstances, the 2nd respondent cannot refuse to register the sale agreement only on the ground of existence of sale agreement.

WEB COPY

6. The learned Special Government Pleader appearing for the respondents submits that the petitioner's representation was refused to be registered on the ground that a Sale Agreement was pending against the property.

7. Considering the above facts and circumstances, the second respondent cannot refuse to register the Sale Deed only on the ground of existing Sale Agreement. Accordingly, the second respondent is directed to register the Sale Deed dated 08.02.2022, if it is otherwise in order, upon payment requisite Stamp Duty and Registration Charges, within a period of twelve weeks from the date of receipt of a copy of this order.

8. Accordingly, this writ petition is disposed of with the aforesaid direction. No costs.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

tri/nhs

To

1.The District Registrar,
Office of the District Registrar - Salem West,
Collectorate, Salem District - 636 001.

2.The Sub Registrar,
Office of the Suramangalam Sub Registrar,
Suramangalam, Salem West,
Salem District - 636 005.

+2cc to Mr.I.Abrar Md.Abdullah, Advocate, S.R.No.13219
+1cc to the Government Pleader, S.R.No.13219

W.P.No.4428 of 2022

PA(CO)
SB(17/03/2022)