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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.10204 of 2022
W.M.P.Nos.9910 & 9913 of 2022

1.S.Venkatachalam
2.V.Kalimuthu
3.S.Rayathal

... Petitioners

Vs.

1. The District Revenue Officer,
Erode District, Erode.

2. The Sub-Registrar,
Nambiur Sub-Registration Office,
Erode District.

3.R.Kumarasamy

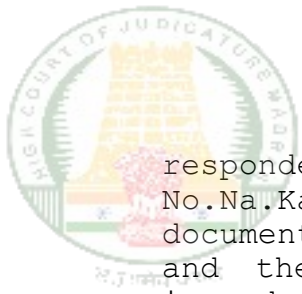
... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned letter of communication issued by the first respondent vide letter dated 24.11.2020 in reference No.Na.Ka.En.178767/2020/002, directing not to register any document of conveyance in Survey No.513 at Emmampoondi village and the consequential impugned order of refusal check slip issued by the second respondent in ref No.RFL/Nambiyur/3/2022 dated 05.04.2022, refusing to register the Sale Deed and quash the same as illegal, arbitrary and without jurisdiction and further direct the second respondent to complete the registration of Sale Document presented for registration in impugned No.RFL/Nambiyur/3/2022 dated 05.04.2022 and return the original, after its registration.

For petitioners : Mr.R.Veeramani
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader
for RR1 & 2

ORDER

The petitioner has filed this petition to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned letter of communication issued by the first



respondent vide letter dated 24.11.2020 in reference No.Na.Ka.En.178767/2020/002, directing not to register any document of conveyance in Survey No.513 at Emmampoondi village and the consequential impugned order of refusal check slip issued by the second respondent in ref No.RFL/Nambiyur/3/2022 dated 05.04.2022, refusing to register the Sale Deed and quash the same and further direct the second respondent to complete the registration of Sale Document presented for registration in impugned No.RFL/Nambiyur/3/2022 dated 05.04.2022 and return the original, after its registration.

2. Mr.Yogesh Kannadasan, learned Special Government Pleader takes notice for the respondents 1 & 2. 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.Since, no adverse order is being passed against the third respondent, notice to the third respondent is dispensed with.

4. The case of the petitioners is that, the third petitioner is the owner of the property comprised in Survey No.513 and a cart track in S.Nos.513 & 514/2, situated at Emmampoondi village. The third petitioner had acquired the property by way of a registered Sale Deed dated 22.03.2015, in Doc.No.6042 of 2015, on the file of SRO, Nambiyur. However, she intends to alienate the property in favour of third parties, hence, she presented a document on 05.04.2022 before the second respondent. However, the second respondent rejected the petitioner's application to register the document by impugned order dated 05.04.2022, on the ground that a suit in O.S.No.90 of 2015 is pending on the file of District Munsif Court, Gobichettipalayam. Challenging the said impugned order the present Writ Petition has been filed by the petitioner for the above relief.

5. Though very many grounds have been raised, learned counsel for the petitioner submits that on earlier occasion, the third respondent executed Sale Deed in favour of the petitioner's vendor on 19.03.2015 and after lapse of seven years, the third respondent had filed a suit in O.S.No.90 of 2015 impleading the petitioner as well as petitioner's vendor as a party in the suit. However, without any restrained order passed by the Court the second respondent had refused to register the document, which is not sustainable. He further submits that the appeal filed by the third respondent had also dismissed by the revenue authorities, including the first respondent.

6. The learned Special Government Pleader appearing for the respondents submits that the issue involved in the present



writ petition is no more res integra, in view of the several orders passed by this Court concerning the same issue. One such order passed by this Court in W.P.No.12585 of 2020 order dated 11.09.2020 in the case of Vadamugam Vellode nalukarai nattu goundergal sangam Vs. Inspector General of Registration and ors, wherein it is observed 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 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."

7. Considering the facts and circumstances of the case, the issue arise in the present case is covered, and the decision stated supra is squarely applies in this case. Hence, this Court is inclined to set aside the impugned order passed by the second respondent and remand the matter back to the second respondent. Further, the second respondent is directed to conduct enquiry in between the petitioners and the third respondent, and if there is no restrained order produced by the third respondent, the second respondent is directed to register the document presented by the petitioner, if it is otherwise in order, upon payment of requisite Stamp duty and Registration Charges by the petitioner.



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8. Accordingly, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar

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To

1. The District Revenue Officer,
Erode District, Erode.
2. The Sub-Registrar,
Nambiur Sub-Registration Office,
Erode District.

+1cc to Mr.R.Veeramani, Advocate, S.R.No.28482
+1cc to the Government Pleader, S.R.No.29692

W.P.No.10204 of 2022
W.M.P.Nos.9910 & 9913 of 2022

AJB[co]
NSK/19/05/2022