



W.P.No.14412 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.06.2022

C O R A M

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.14412 of 2022
and WMP.No.13639 of 2022

Senthilkumar

... Petitioner

Vs

The Sub Registrar,
Office of the Sub Registrar,
Harur, Dharmapuri District.

... Respondent

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ, order or direction in the nature of Writ of Certiorarified Mandamus calling for records with respect of the impugned proceedings of the respondent in Refusal Number- RFL/ HARUR/ 66/ 2022 dated 16.03.2022 and quash the same consequently direct the respondent to register the document dated sale deed document dated 20.01.2022 presented for registration by the petitioner on 16.03.2022 within a stipulated period as fixed by this Honble Court.

For Petitioner ... M/s. R.Nalliyappan

For Respondent ... Mr. Yogesh kannadasan,
Special Government Pleader

ORDER

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The present petition has been filed seeking the relief of quashment of the impugned Refusal Check Slip in RFL/ HARUR/ 66/ 2022 dated 16.03.2022 issued by the Respondent and a direction to the Respondent to register the sale deed dated 20.01.2022 in respect of the subject property.

2. Mr. Yogesh kannadasan, learned Special Government Pleader takes notice for the respondent.

3. It is the case of the petitioner that the petitioner along with his wife has agreed to purchase a property comprised in SF.No.97/1 at Kullapatti Village, Dharmapuri District to an extent of 4.45 acres of agricultural land from one Mangayarkarasi and two others. The petitioner herein has presented a sale deed with respect to the above said properties before the respondent on 16.03.2021 for registration. When the sale deed was presented before the Respondent for Registration along with required stamp duty and registration expenses, the Respondent refused to register the same vide the impugned Refusal Check Slip dated 16.03.2022 on the ground that the partition suit in O.S.No.10 of 2017 and 44 of 2011 on the file of the Sub Judge, Harur is pending between the parties in respect of the subject property. Challenging the



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impugned Refusal Check Slip, the petitioner has come up with this Writ petition seeking the relief of quashment of the same.

4. Learned counsel for the petitioner submits that the suit which has been referred in the impugned Refusal Check Slip cannot be a bar for refusing the registration of the sale deed, however, the said suit is a partition suit which was filed by the Respondent, who has no right or share over the subject property. Further, the property in dispute is the self acquired property of the petitioner. That being the case, mere pendency of the suit cannot be a ground for refusing the registration of the sale deed. Further, in the absence of any interim order in the suit restraining the alienation of the subject property, the Refusal Check Slip impugned in this Writ Petition is liable to be quashed and this Writ Petition may be allowed.

5. Learned Special Government Pleader appearing for the official respondent herein submits that while a suit for partition in respect of the subject property of the Writ Petition is pending before the competent civil court, any document pertaining to the said property cannot be entertained, therefore, the Refusal Check Slip issued by the Respondent/the Sub Registrar cannot be



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found fault with and therefore, the order impugned in this Writ petition needs no interference of this Court and deserves to be dismissed.

6. Heard the learned counsel on the either side and perused the materials available on record.

7. The issue in this case no longer *res integra* as the similar issue was considered by this Court in the case of ***Vadamugam Vellode NalukaraiNattu Goundergal Sangam Vs Inspector General of Registration, 2021 (1) CTC 535*** in W.P.No.12585 of 2020 & W.M.P.Nos.15518 & 15521 of 2020. The relevant portion of the order is extracted under as:

10. The 5th Respondent has approached the Civil Court and he has file O.S.No.48 of 2019, seeking for the relief of Partition and separate posession 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 kshe 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 passsed 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 functionin accordance with law. This Court exercising its



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*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 les 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.

12. This Writ Petition is accordingly allowed. No Costs. Consequently, the connected Miscellaneous Petitions are closed.

8. It is the claim of the petitioner that the pendency of the suit with respect to the subject property cannot be a bar for registration of the document related to the very same property, however, on going through the facts and circumstances of the present case on hand, this Court is of the view that in the absence of any interim order in the suit restraining the alienation of the property and in the absence of any material to substantiate the right of the Respondent



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over the subject property, the refusal to register the document citing the pendency of the suit for partition is not sustainable.

9. Accordingly, this Writ Petition is allowed in the above terms and the Respondent/The Sub Registrar is directed to register the document on payment of necessary stamp duty and registration charges, if there is no restraint order is passed. No Costs. Consequently, connected miscellaneous petition is also closed.

10.06.2022

rli

Index:Yes/No

Internet:Yes

Speaking/Non-Speaking order

To

The Sub Registrar,
Office of the Sub Registrar,
Harur, Dharmapuri District.

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