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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.06.2022

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.14554 of 2022

and

W.M.P.No.13756 of 2022

V.Saraswati

...Petitioner

Vs

1. The Inspector General of Registration,
Office of the Inspector General of Registration,
100, Santhome High Road, Mullima Nagar,
Mandavelipakkam, Raja Annamalai Puram,
Chennai, Tamil Nadu - 600 028.

2. The District Registrar,
Office of the District Registrar,
SH 68, Thirupapuliyur,
Cuddalore, Tamil Nadu - 607 002.

3. The Sub Registrar,
Office of the Sub Registrar,
Kumbakonam Road, Near Police Station,
Panruti - 607 106.

4. K.R.Rajendran

...Respondents

PRAYER : 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 to call for the records relating to the Refusal check slip vide online refusal number RFL/Panruti/13/2022 dated 09.05.2022 along with the refusal check list XXXX/2022 dated 09.05.2022 issued by the third respondent and quash the same as illegal, arbitrary and against the law and consequently to direct the third respondent to register the Memorandum of deposit of title deed document dated 31.03.2022 presented for registration by the petitioner and register the same in accordance with law.

For Petitioner : Mr.S.Chetan Prakash

For Respondents-1 to 3 : Mr.Yogesh Kannadasan,
Special Government Pleader



O R D E R

The present petition has been filed seeking the relief of quashment of the impugned Refusal Check Slip dated 09.05.2022 issued by the 3rd Respondent and a direction to the 3rd Respondent to register the Memorandum of deposit of title deed document dated 31.03.2022 presented for registration by the petitioner and register the same in accordance with law.

2. Since no adverse order is being passed against the 4th Respondent, notice to the 4th Respondent is dispensed with.

3. It is the case of the petitioner that the petitioner is the absolute owner of the property being land and constructed residential building bearing Plot Nos.46 & 47 comprised in old Survey No.415, new Survey No.103/3A1A measuring an extent of 4800 sq.ft. She has purchased the above said property by virtue of registered sale deed in Doc.No.3372/2011 dated 14.11.2011 on the file of the Sub Registrar, Panruti. Ever since the purchase, the petitioner is in possession and enjoyment of land and building situated thereon. While so, the petitioner had obtained a loan from Federal Bank, Panruti Branch for take over of existing loan from DHFL Vysya Housing Finance Limited. The Federal Bank, Panruti Branch upon receipt of the entire original property documents had disbursed the loan on 30.03.2022, as only the consequent registration of Mortgage by Deposit of title deed to be done. While the petitioner proceeded with Mortgage by deposit of title deed for the loan sanction and presented for registration before the 3rd Respondent along with required stamp duty and registration expenses, the 3rd Respondent refused to register the same vide the impugned Refusal Check Slip dated 09.05.2022 on the ground that there are suits pending in O.S.No.210 of 2013 on the file of the District Court, Cuddalore and O.S.No.305 of 2013 on the file of the District Munsif Court, Panruti in respect of the subject property. Challenging the 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 suits which have been referred in the impugned Refusal Check Slip cannot be a bar for refusing the registration of the sale deed, however, the said suits are filed for declaration and permanent injunction, which was filed by the 4th 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 respondents herein submits that while a suits for declaration and permanent injunction 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 3rd Respondent/the Sub Registrar cannot be 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 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 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 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 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,



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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 suits restraining the alienation of the property and in the absence of any material to substantiate the right of the 4th Respondent over the subject property, the refusal to register the document citing the pendency of the suits for declaration and permanent injunction is not sustainable. Further, it is not the case of the 4th Respondent that the property is not the self acquired property of the petitioner.

9. Accordingly, this Writ Petition is allowed in the above terms and the 3rd 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 closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

rsi



To

1. The Inspector General of Registration,
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W.P.No.14554 of 2022
and
W.M.P.No.13756 of 2022

JPL (CO)
PR (08/07/2022)