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W.P.Nos.15925, 15928 & 15929 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.06.2022

C O R A M

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

W.P.Nos.15925, 15928 & 15929 of 2022
and
W.M.P.Nos.15230, 15231 & 15232 of 2022

M.S.Sivakumar

... Petitioner in all W.Ps.

Vs

The Joint Sub-Registrar No.I,
Office of the Sub Registrar,
Salem East, Salem.

... Respondent in all W.Ps.

PRAYER in W.P.No.15925/2022 : 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/1 Number Joint Sub-Registrar Salem East/19/2022 dated 01.02.2022 and quash the same, consequently direct the respondent to register the cancellation of sale agreement document dated 31.01.2022, which has been presented for registration before the respondent on 01.02.2022 within a stipulated period.

PRAYER in W.P.Nos.15928 & 15929/2022 : Petitions 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/1 Number Joint Sub-Registrar Salem East/18/2022 & RFL/1 Number Joint Sub-Registrar Salem East/20/2022 dated 01.02.2022 and quash the same, consequently direct the respondent to register the Sale Deed document dated 31.01.2022, which has been presented for registration before the respondent on 01.02.2022 within a stipulated period.



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For Petitioner : Mr.R.Nalliyappan
in all W.Ps.

For Respondent : Mr.Yogesh Kannadasan,
in all W.Ps. Special Government Pleader

COMMON ORDER

The present petitions have been filed seeking the relief of quashment of the impugned Refusal Check Slips dated 01.02.2022 issued by the Respondent and a direction to the Respondent to register the cancellation of sale agreement document and the Sale Deed document dated 31.01.2022, which have been presented for registration by the petitioner, within a stipulated period.

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

3. It is the case of the petitioner that the petitioner is having title to the extent of 1/3 share over the property comprised in S.F.No.113/3 New S.F.No.115/2 of Thadampatti Village, Salem District. One M.S.Ravikumar claiming to be the Correspondent of Joint Matriculation Higher Secondary School, Ammapet, Salem-14 filed a suit in O.S.No.345 of 2020 for a relief of



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permanent injunction on the file of Principal District Munsif, Salem. Later the said Ravikumar filed another suit in O.S.No.39 of 2022 seeking a relief to direct the petitioner to sell the property standing in the name of the petitioner to his School and the same is pending on the file of III Additional District Judge, Salem. The petitioner, executed a registered sale agreement with respect to the above said property in favour of one G.Srinivasan. Later the said G.Srinivasan died on 17.09.2015. Hence, the petitioner and one Raja, who is the son of said G.Srinivasan, have presented a document dated 31.01.2022 before the respondent to cancel the said sale agreement in Doc.No.695 of 2005. The petitioner has also executed a sale deed dated 31.01.2022 in favour of one Mr.S.Thiyagarajan and Mr.T.Kumaravel to sell a portion of the above said properties and the same was presented for registration before the respondent on 01.02.2022. The Respondent refused to register the same vide the impugned Refusal Check Slips dated 01.02.2022 on the ground that the suit in O.S.No.39 of 2022 is pending against the respondent on the file of the III Additional District Court, Salem in respect of the subject property. Challenging the impugned Refusal Check Slips, the petitioner has come up with these Writ petitions seeking the relief of quashment of the same.



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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 permanent injunction, which was filed by one M.S.Ravikumar, 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 Slips impugned in this Writ Petitions are liable to be quashed and these Writ Petitions may be allowed.

5. Learned Special Government Pleader appearing for the respondent submits that while a suit for permanent injunction in respect of the subject property of the Writ Petitions is pending before the competent civil court, any document pertaining to the said property cannot be entertained, therefore, the Refusal Check Slips issued by the Respondent/Joint Sub Registrar cannot be found fault with and therefore, the order impugned in these Writ petitions needs no interference of this Court and deserves to be dismissed.



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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 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 *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 suit restraining the alienation of the property and in the absence of any material to substantiate the right of the plaintiffs over the subject property, the refusal to register the document citing the pendency of the suit for permanent injunction is not sustainable. Further, it is not the case of the plaintiffs therein that the property is not the self acquired property of the petitioner.

9. Accordingly, these Writ Petitions are allowed in the above terms and the Respondent/The Joint Sub-Registrar is directed to entertain the



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documents on payment of necessary stamp duty and registration charges, if there is no restraint order is passed. No Costs. Consequently, connected miscellaneous petitions are closed.

28.06.2022

Index: Yes/No
Internet: Yes
Speaking/Non-Speaking order
rsi

To

The Joint Sub-Registrar No.I,
Office of the Sub Registrar,
Salem East, Salem.



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M.DHANDAPANI, J.

rsi

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