



WEB COPY



W.P.No.16787 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.07.2022

C O R A M

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

W.P.No.16787 of 2022

and

W.M.P.No.16097 of 2022

Shaik Abdhulla,
Represented by his Power of Attorney agent Mr.Idrees,
S/o.Habeebkhan,
No.7D, Muthiah Pathar Street,
Muthupet, Mannargudi Taluk,
Thiruvarur District 614 704.

... Petitioner

Vs

The Sub-Registrar,
Office of the Sub-Registrar,
Muthupet,
Thiruvarur District - 614 704.

... Respondent

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 pertaining to the Refusal Check Slip in refusal number RFL/Muthupettai/12/2022 dated 22/04/2022 issued by the respondent and to quash the same as illegal, incompetent and ultravires and consequently direct the respondent to register the sale deed dated 20.04.2022 executed by the petitioner.

For Petitioner : Mr.N.Senthilkumar

For Respondent : Mr.Yogesh Kannadasan,
Special Government Pleader



W.P.No.16787 of 2022

WEB COPY

ORDER

The present petition has been filed seeking the relief of quashment of the impugned Refusal Check Slip in refusal number RFL/Muthupettai/12/2022 dated 22/04/2022 issued by the respondent and a direction to the Respondent to register the sale deed dated 20.04.2022 executed by the petitioner, within a stipulated period.

2. Mr. Yogesh Kannadasan, learned Special Government Pleader takes notice for Respondent. With the consent of learned counsel appearing on either side, the Writ Petition is taken up for final disposal at the admission stage itself.

3. It is the case of the petitioner that the petitioner is the absolute owner of the agricultural lands measuring to an extent of Acres 5.04 Cents, comprised in S.No.224-5, S.No.225-1A, S.No.225-1B and S.No.225-2 in Buthagaram Village, Mannarkudi Taluk, Thiruvarur District. Thereafter, through a sale deed dated 20.04.2022, the petitioner sold the aforesaid properties to one Meikanda Devan. When the sale deed was presented before



W.P.No.16787 of 2022

the respondent for registration, the respondent refused to register the same vide the impugned Refusal Check Slip dated 22.04.2022, on the ground that there is a civil suit in O.S.No.33 of 2022 is pending against the petitioner on the file of the Subordinate Court, Mannarkudi, which has been filed by one G.Baskar for specific performance to enforce the sale agreement dated 01.04.2022. 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 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 filed for specific performance, which was filed by one G.Baskar, 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 Petition is liable to be quashed and this Writ Petition may be allowed.



W.P.No.16787 of 2022

5. Learned Special Government Pleader appearing for the respondent submits that while a suit for specific performance 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 Slips issued by the Respondent/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 Regisration, 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



WEB COPY



W.P.No.16787 of 2022

*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 injunction 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, 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



W.P.No.16787 of 2022

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 plaintiff/G.Baskar over the subject property, the refusal to register the document citing the pendency of the suit for specific performance is not sustainable. Further, it is not the case of the plaintiff therein 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 Respondent/Sub Registrar is directed to entertain the document submitted for registration and register the same 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.

06.07.2022

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

Note: Registry is directed to issue order copy on 08.07.2022



W.P.No.16787 of 2022

To

The Sub-Registrar,
Office of the Sub-Registrar,
Muthupet,
Thiruvarur District 614 704



WEB COPY



W.P.No.16787 of 2022

M.DHANDAPANI, J.

nsa/rsi

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