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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2022

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.26601 OF 2014

AND

MP.NO.1 OF 2014

C.Kasthuribai

...Petitioner

Vs

- 1.The District Registrar,
Registration Department,
Tindivanam, Tamilnadu.
- 2.The Sub Registrar,
Office of the Sub-Registrar,
Tindivanam, Tamilnadu.
- 3.Kanagarathinam

...Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 & 2 not to register the execution of sale of the property with Survey Nos.201/7, 203/1, 201/1, 201/3, 203/3, 203/4, 203/9, 167/1, 167/3 since it is the subject matter of the partition suit which is pending before the Civil Court and also an injunction is in force restraining the parties from transferring the above stated property.

For Petitioner : M/s.V.Ajaykumar

For Respondents : Mr.V.Veluchamy,
Additional Government Pleader

O R D E R

Since, the properties situated in Survey Nos.201/7, 203/1, 201/1, 201/3, 203/3, 203/4, 203/9, 167/1, 167/3, are the subject matter of the Civil suit, which is pending before the Civil court, the present petition has been filed for restraining the respondents 1 & 2 from registering the execution of the sale of the said properties.

2. It is the case of the petitioner that he had filed a partition suit in O.S.No.17 of 2005 on the file of the District Judge, Villupuram, against the 3rd respondent in respect of the



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subject properties and had obtained an order of interim injunction in I.A.No.92 of 2013 restraining the 3rd respondent and other legal heirs of the petitioner's brother from alienating the said properties pending disposal of the suit, despite which, the 3rd respondent was taking steps to sell the property in favour of third parties and the copy of the said order passed by the civil court was also intimated to the 2nd respondent. Further, the petitioner has also made a representation to the 2nd respondent on 30.07.2014 requesting not to register the execution of the sale of the subject property while the suit with regard to the subject properties pending on the file of the civil court between the parties. However, till date, the same has not been considered. Hence, the petitioner has come up with the present Writ Petition.

3. Learned counsel for the petitioner submits that, despite an order of interim injunction of the civil court restraining the 3rd respondent herein from alienating the subject property, the 2nd Respondent ought not to have entertained the documents produced for execution of the sale of the subject properties, as the subject properties are the subject matter of the partition suit.

4. Learned Additional Government Pleader appearing for Respondents 1 & 2 submitted that though the order of interim injunction has been passed by the lower court restraining the 3rd respondent herein from alienating the subject properties, however, no order is passed against the Respondents 1 & 2 restraining them from executing the sale of the subject properties. Therefore, filing of Writ Petition before this Court seeking a direction against the Respondents 1 & 2 is not sustainable. Hence, this Writ Petition is liable to be dismissed.

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

6. The facts relating to the filing of the suit and grant of interim order is not disputed. The dispute is only with regard to the said order not being against the 2nd Respondent.

7. A careful perusal of the order reveals that the court below has passed the injunction only against the 3rd Respondent and there is no order of injunction against the 2nd Respondent and that being the case, there is no embargo on the 2nd Respondent to register the sale deed. Further the 2nd Respondent not being a party to the suit, no affirmative direction can be issued by this Court to the 2nd Respondent.

8. For the reasons aforesaid, this Writ Petition is devoid on merits and the same is accordingly dismissed granting liberty



to the petitioner to take necessary steps in accordance with law relating to impleadment of the 2nd Respondent herein as a party defendant in the pending suit. No Costs. Consequently, the connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

NHS

To

- 1.The District Registrar,
Registration Department,
Tindivanam, Tamilnadu.
- 2.The Sub Registrar,
Office of the Sub-Registrar,
Tindivanam, Tamilnadu.

+1cc to Mr.V.Ajayakumar, Advocate Sr.No.22169

W.P.No.26601 of 2014

CA(CO)
RVM(06/06/2022)