



WEB COPY



W.P.No.20985 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.20985 of 2021

And

W.M.P.No.22246 of 2021

M.G.Selvam

... Petitioner

Vs.

1.The District Registrar,
Krishnagiri District,
Krishnagiri.

2.The Sub Registrar,
Royakottai,
Sub-Registrar Office,
Royakottai,
Krishnagiri District.

3.N.Samraj

4.Selvi

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned orders passed by the first respondent dated 09.08.2021 made in Na.Ka.No.4286/AA1/2021 and the rectification order dated 13.08.2021 made in Na.Ka.No.4286/AA1/2021 in



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confirming the order of the second respondent dated 28.07.2021 in refusal No.RFL/Rayakottai/5/2021 and to quash the same, consequently direct the second respondent to register the sale deed executed by third respondent in favour of petitioner date 26.07.2021 in respect of property comprised in S.No.31/3D situate at Periyannur Village, Palacode Taluk, Dharmapuri District and return the original sale deed to the petitioner on its registration forthwith.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.Yogesh Kannadasan for R1 and R2
Special Government Pleader
Mr.B.Ramar for R4

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned orders passed by the first respondent dated 09.08.2021 made in Na.Ka.No.4286/AA1/2021 and the rectification order dated 13.08.2021 made in Na.Ka.No.4286/AA1/2021 in confirming the order of the second respondent dated 28.07.2021 in refusal No.RFL/Rayakottai/5/2021 and to quash the same, to consequently direct the second respondent to register the sale deed executed by third respondent in favour of petitioner dated 26.07.2021 in respect of the



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property comprised in S.No.31/3D situate at Periyannur Village, Palacode Taluk, Dharmapuri District and to return the original sale deed to the petitioner on its registration forthwith.

2.The case of the petitioner is that the third respondent purchased the subject property from the father of the fourth respondent vide sale deed dated 26.12.2018 registered with the second respondent as Document No.2633 of 2018 and thereafter sold the property to the petitioner. When the petitioner presented the sale deed before the second respondent for registration on 26.07.2021, the second respondent returned the document on the ground that suit in O.S.No.36 of 2021 filed by the fourth respondent for cancellation of Document No.2633 of 2018 is pending before the learned District Munsif, Palacode. Aggrieved by the same, the petitioner preferred appeal before the first respondent, however, the first respondent disposed of the appeal stating that no appeal lies to him. Hence, this writ petition.

3.The learned counsel appearing for the petitioner submitted that mere pendency of the suit is not a bar for registration of a



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document and further submitted that the issue involved in the present case has already been settled by this Court in the decisions reported in **2021 (1) CTC 535 [Vadamugam Vellode Nalukarai Nattu Goundergal Sangam Vs. The Inspector General of Registration and Others]** and **2022 SCC OnLine Mad 1174 (P.Kandasamy Vs. Inspector General of Registration and Others)**.

4.The learned Special Government Pleader submitted that since the suit in O.S.No.36 of 2021 filed by the fourth respondent for cancellation of Document No.2633 of 2018 is pending before the learned District Munsif, Palacode, the second respondent refused to register the document, which warrants no interference.

5.Heard the arguments advanced on either side and perused the materials available on record.

6.The facts in the present case is not in dispute. The issue involved in the present case is no longer *res integra*. The issue involved in this writ petition has already been considered by this Court in its decisions reported in **2021 (1) CTC 535 [Vadamugam Vellode**



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Nalukarai Nattu Goundergal Sangam Vs. The Inspector General of Registration and Others] and in ***2022 SCC OnLine Mad 1174 (P.Kandasamy Vs. Inspector General of Registration and Others)***, the relevant portion of which reads as follows:

(i)2021 (1) CTC 535 [Vadamugam Vellode Nalukarai Nattu Goundergal Sangam Vs. The Inspector General of Registration and Others]:

"10. The 5th respondent has approached the Civil Court and he has filed O.S.No.48 of 2019, seeking for the relief of partition and separate possession 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



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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 lis 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."

(ii)2022 SCC OnLine Mad 1174 (P.Kandasamy Vs.

Inspector General of Registration and Others):

"24. Further, a learned single Judge of this Court, in Vadamugam Vellode Nalukarai Nattu Goundergal Sangam case (supra), in similar circumstances, considering the pendency of the suit, held that in the absence of any law, mere pendency of the suit will not bar taking place of any transaction and to that end Section 52 of the Transfer of Property Act provides a solution for transactions that take place during the pendency of the suit. Therefore, any encumbrance created during the pendency of the suit would be subject to Section 52 of the Transfer of Property Act.



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25. From the above, it is amply clear that the petitioner had executed the settlement deed and presented the same for registration on 11.8.2021, much prior to the order of injunction on 7.3.22 and, therefore, the document is deemed to have come into force on the date of its execution, as held by the Hon'ble Apex Court in Hamda Ammal's case (supra) and that non-production of the original parent deed cannot be put against the party seeking registration of the document in view of the decision of the Division Bench of this Court in Ramayee's case (supra) and the pendency of the suit cannot bar a party from entering into subsequent transaction as held by this Court in Vadamugam Vellode Nalukarai Nattu Goundergal Sangam case (supra). Therefore, the three-fold contention raised on behalf of the 3rd respondent for objecting grant of relief to the petitioner does not merit acceptance. The petitioner having executed the settlement deed much prior to the order of injunction and the filing of the suit, the 2nd respondent ought to have entertained the settlement



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deed and registered the same as per Section 47 of the Registration Act and negating the prayer of the petitioner citing that the petitioner has not obtained the original documents from the 3rd respondent and filed it and also citing pendency of the suit for specific performance clearly shows that the order passed by the 2nd respondent is in clear violation of the orders passed by this Court and the same is wholly perverse, illogical, irrational and arbitrary and the same is liable to be set aside."

7.Hence, applying the ratio laid down in the decisions cited supra, this Court set aside the orders impugned in this writ petition. In the absence of any restraint order as against the second respondent and if the second respondent is satisfied that there is no restraint order, the second respondent is directed to entertain the document presented by the petitioner for registration, if it is otherwise in order and pass appropriate orders, after affording opportunity to the petitioner and respondents 3 and 4 and after receipt of necessary stamp duty and registration charges.



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8.The writ petition is accordingly disposed of. No costs.

Consequently, the connected miscellaneous petition is closed.

21.06.2022

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The District Registrar,
Krishnagiri District,
Krishnagiri.

2.The Sub Registrar,
Royakottai,
Sub-Registrar Office,
Royakottai,
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