



W.P.No.20367 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2022

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.20367 of 2022

and

W.M.P.No.19558 of 2022

Palanisamy

. . . Petitioner

Vs.

The Sub Registrar,
Sub Registrar Office,
6/671, Post Office road,
Avinashi Main Road,
Avinashi, Thiruppur – 641 654

. . . Respondent

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus or any other appropriate Writ,Order or Direction in the nature of a Writ calling for the records of the Respondent relating to the impugned order bearing Refusal Number:RFL/Avinashi/13/2022 dated 30.06.2022 and quash the same and consequently direct the Respondent to register the Sale Deed executed by the Petitioner dated 22.03.2022.



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For Petitioner : M/s.T.Gowthaman
For Respondents : Mr.Yogesh Kanndasan,
Special Government Pleader

ORDER

The present petition has been filed seeking to quash the impugned order dated 30.06.2022 passed by the respondent and to direct the respondent to register the Sale Deed dated 22.03.2022 which was executed by the petitioner.

2. Mr.Yogesh Kanndasan, learned Additional Government Pleader takes notice for the 1st Respondent.

3. It is the case of the petitioner that the petitioner having purchased the subject property through the Auction conducted on 20.02.2020 by M/s.Bank of Baroda, MSME Tiruppur Branch vide the sale deed dated 28.05.2020, he is in absolute possession of the said properties. The revenue



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records in respect of said properties have also been mutated in the petitioner's name. The original owners of the aforesaid property have availed business loan from the Bank of Baroda, MSME Tiruppur Branch, however, the said loan was not repaid, as a result of which, recovery proceedings under SARFAESI Act came to be initiated by the Debts Recovery Tribunal, Coimbatore, against which, Writ Petition in W.P.No.12324 of 2020 was filed by the original owners and the same was disposed of with certain directions. Thereafter, the petitioner had executed a sale deed dated 22.03.2022 with respect to the subject property in favour of one Viswanathan and sought to register the same before the respondent, however, the respondent had refused to register the said document vide the impugned refusal check slip dated 30.06.2022. Challenging the same, the present petition has been filed.

3. 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 as no restraint order has been passed by any court of law or the competent authority restraining the



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registering authority from registering the document pertaining to the subject property of the suit. In the absence of any restraint order, the respondent is bound to discharge his duty and entertain documents for registration. In view of the aforesaid, the order impugned in this Writ Petition is not sustainable and the same is liable to be interfered with.

4. On the above contentions, heard the Additional Government Pleader appearing for the respondent.

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

6. 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:



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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 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 kshe 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, 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.

7. It is the claim of the petitioner that the pendency of the suit



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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, the refusing to register the document by merely citing the pendency of the suit is not sustainable.

8. Accordingly, this Writ Petition is allowed in the above terms and the Respondent/The Sub Registrar is directed to register the document produced by the petitioner, on payment of necessary stamp duty and registration charges, if there is no restraint order is passed. No Costs. Consequently, the connected Miscellaneous Petition is closed.

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NHS

Index : Yes / No

Internet : Yes / No



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To

The Sub Registrar,
Sub Registrar Office,
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Avinashi Main Road,
Avinashi, Thiruppur – 641 654



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M.DHANDAPANI, J.

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