



W.P.No.22916 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2022

CORAM:

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

W.P.No.22916 of 2022

P.Kavitha

...Petitioner

Vs.

1. The District Registrar,
Krishnagiri District,
Krishnagiri.

2. The Sub Registrar,
Uttangarai Sub-Registrar,
Krishnagiri District,
Krishnagiri.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent herein pertaining to his proceedings in Na.Ka.No.163/2022 dated 17.06.2022 and quash the same and consequently direct the 2nd respondent herein to register the sale deed pending Document No.6/2022 and return the same to the petitioner.

For Petitioner : Mr.M.Selvam



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For Respondents : Mr.Yogesh Kannadasan, Spl.GP

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ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to call for records of the 2nd respondent in respect of the proceedings in Na.Ka.No.163/2022 dated 17.06.2022, quash the same and to consequently, direct the 2nd respondent to register and release the sale deed dated 06.06.2022 to the petitioner.

2. It is the case of the petitioner that she decided to purchase the land comprised in S.No.16/1, measuring an extent of 4.36 Acres, situated at Dhurijchipatti Village along with other lands comprised in S.Nos.4/2A, 23/1A, 24/1, 19/1A1, 22/1A1, 22/2A1 and 23/1B, totally measuring an extent of 16.67.5 Acres, situated at Kollappatti Village from one Shanmugasundaram for a valid sale consideration and accordingly, the said Shanmugasundaram executed a sale deed to that effect in favour of the petitioner and presented the same for registration before the 2nd respondent on 06.06.2022. Though the said document was received by the 2nd respondent and the petitioner has paid the necessary charges and stamp



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duty, the 2nd respondent has not released the said document and kept the same as Pending in Doc.No.P/Uthankarai/6/2022. Aggrieved by the same, the petitioner made a representation dated 16.06.2022 before the 2nd respondent, seeking to release the said sale deed, however, the same was not considered. Therefore, the petitioner filed a Writ petition before this Court in W.P.No.16902 of 2022 and when the same was pending, the 2nd respondent has rejected the sale deed presented, vide Refusal Check Slip No.RFL/Uthankarai/BOOK 2/19 and stated the grounds for refusal, vide separate proceedings bearing Na.Ka.No.163/2022 dated 17.06.2022. Challenging the same, the present Writ petition is filed.

3. Learned counsel for the petitioner submitted that, mere pendency of Suit and enquiry proceedings will not be a bar for entertaining the document presented for registration, unless there is a restraint order, however, in the present case, no such restraint order was passed by the trial court. Hence, in the absence of any interim order in the above said suit restraining the alienation of the subject property, refusing to register the document presented for registration is not sustainable and the order impugned in this



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Writ Petition is liable to be quashed and this Writ Petition may be allowed.

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4. Learned Special Government Pleader appearing for the respondents submits that the document presented by the petitioner was rejected on the grounds that the suit in respect of the subject property is pending before the trial court in O.S.No.219/2022 and further the enquiry proceedings in respect of the very same dispute is pending before the District Registrar(Admin), Krishnagiri. Hence, the 2nd respondent has refused to register the above said document and the same cannot be found fault with and therefore, the order impugned in this Writ petition needs no interference of this Court and the present Writ petition deserves to be dismissed.

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

6. The issue involved in this Writ petition is 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 &



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W.M.P.Nos.15518 & 15521 of 2020, which held that, mere pendency of Suit without any restraint order will not be a bar for entertaining the document presented for registration. For better appreciation, the relevant portion of the order is extracted hereunder:-

*“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 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 21.2.2020. 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 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.”

12. This Writ Petition is accordingly allowed. No Costs. Consequently, the connected Miscellaneous Petitions are closed.”

7. Further, 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 subject property, refusing to register the document presented by the said Shanmugasundaram, citing the pendency of the suit is not sustainable.

8. Accordingly, this Writ Petition is allowed in the above terms and the 2nd respondent / Sub Registrar is directed to register the document presented for registration, on receipt of necessary stamp duty and registration charges, if there is no restraint order passed. No Costs.



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Index : Yes/No

Speaking order : Yes/No

To:

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M.DHANDAPANI, J.

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