



WEB COPY



W.P.No.27329 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.10.2022

C O R A M

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

W.P.No.27329 of 2022
and WMP.No.26512 of 2022

K. Subiramanian
Petitioner

...

Vs

1. The sub Register,
Arankandanallur
Thirukovillur Taluk,
Villupuram District.

2. P. Kanhanbai

3. P.Rameshchand

4. P. Natesh

5. P. Smishtha

6. P.Ananthakumar

7.Ismail.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records

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pertaining to the order of first respondent dated 22.09.2022 in reference No.TP/132884182/2022 and quash the same and direct first respondent to register the sale deed in the name of the 7th respondent presented by the writ petitioner without insisting for the production of original parent document No.593/2013 and pass orders.

For Petitioner ... Mr. L. Arockia Selvaraj

For Respondent ... Mr.G. Krishna Raja,
Additional Government Pleader

ORDER

By consent of both the parties this writ petition is taken up for disposal at the admission stage itself.

2. The present petition has been filed for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order of first respondent dated 22.09.2022 in reference No.TP/132884182/2022 and quash the same and direct first respondent to register the sale deed in the name of the 7th respondent presented by the writ petitioner without insisting for the production of original parent document No.593/2013.



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3. It is the case of the petitioner that the petitioner borrowed a sum of

Rs.3,00,000/- from one Prakashchand who is the father of respondents 2 to 6.

Since the said Prakashchand did not come forward to receive the money the petitioner was unable to settle the due. Against which the respondents 2 to 6 initiated a Suit in O.s.No.143 of 2015 and it was ordered for sale of property of the petitioner vide order dated 11.08.2018 in I.A.No.81 of 2018. Thereafter the petitioner filed I.A.No.601 of 2022 in O.S.No.143 of 2015 seeking the relief of paying full amount and the same was ordered with a direction to pay a sum Rs.6,64,986/- by way of E-challan and the same was paid and the petitioner sought for the original document. But, the same was not yet received. Thereafter the petitioner initiated to sell the property to 7th respondent and executed a sale deed and when presented the said deed along with a copy of the certified copy of the parent document before the first respondent for registration, the same was refused on the ground that a suit in O.S.No.143 of 2015 on the file of the Sub Court, Villupuram is pending between the parties in respect of the subject property. Challenging the impugned Refusal Check Slip, the petitioner has come up with this Writ petition seeking the relief of quashment of the same.



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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. Further, 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 Slip impugned in this Writ Petition is liable to be quashed and this Writ Petition may be allowed.

5. Learned Special Government Pleader appearing for the official respondent herein submits that while a suit for 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 Slip issued by the Respondent/the 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.



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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 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 functionin 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*



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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 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 refusal to register the document citing the pendency of the suit is not sustainable.

9. Accordingly, this Writ Petition is allowed in the above terms and



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the first Respondent/The Sub Registrar is directed to register the document 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.

13.10.2022

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Index:Yes/No

Internet:Yes

Speaking/Non-Speaking order

To

The sub Register,
Arankandanallur
Thirukovillur taluk,
Villupuram District.



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M.DHANDAPANI, J.

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