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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W. P. No. 29255 of 2022

P.Nandagopal

..... Petitioner

Versus

1. The Inspector General of Registration,
State Registration Department,
Santhome, Chennai 600 004.

2. The District Registrar,
Office of the District Registrar,
Ariyalur 621 704.

3. The Sub-Registrar,
Vikramangalam Sub Registrar Office,
Vikramangalam,
Ariyalur District.

4. Gayathri

..... Respondents

The Writ Petition filed under Section 226 of the Constitution of India, pleaded to issue Writ of Mandamus directing the respondents 2 to 3 to dispose of the representation dated 30.08.2022 by the petitioner.

For Petitioner : Mr.S.S.Swaminathan

For Respondent : Mr.C.Kathiravan, SGP RR1 to 3



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ORDER

This Writ Petition has been filed seeking a direction to the respondents 2 to 3 to dispose of the representation dated 30.08.2022 by the petitioner.

2. It is the case of the petitioner that originally, the petitioner's father Pandurangan purchased Nanja lands measuring an extent of Acre 2.40 cents in S.F.No.326 and Acre 0.15 cents in S.F.No.272/2 at Kararasavalli village and various extents of Punja lands and Nattam lands in various survey numbers at Vandrayankattalai Village out of his own earnings. The petitioner's father filed a suit in O.S.No.230 of 1988 on the file of District Munsif Court, Ariyalur against his brothers Selvaraju, Ragothaman and Sekar and another person Natesan for the relief of declaration of title in respect of the suit properties in his favour as they attempted to usurp the properties of the petitioner's father. The above said suit was allowed by Judgement and decree dated 18.06.1992 and the title in respect of the suit properties were declared in favour of the petitioner's father.

3. Aggrieved by the above said Judgment and decree, deceased Ragothaman and others preferred appeal in A.S.No.151 of 2002 on the file of the Sub Court, Ariyalur and by judgement and decree dated 29.07.2010 the above said appeal was allowed by setting aside the decree passed by the trial Court.



Aggrieved by the judgement and decree passed in the above appeal, the petitioner's father preferred the second appeal in S.A.No.600 of 2011 before this Hon'ble High Court. Along with the above second appeal, the petitioner's father filed the petition for injunction restraining the respondents therein from alienating or encumbering the properties comprised in O.S.No.230 of 1988 on the file of District Munsif Court, Ariyalur and this Hon'ble Court, by its order dated 02.06.2011, granted interim injunction as prayed for which is still in force. After the demise of the petitioner's father, the petitioner himself impleaded in the above said second appeal and the same is still pending before this Hon'ble High Court for adjudication.

4. While so, on 04.08.2021, FIR was registered in Crime No.137 of 2021 against Sekar, who is the 1st Respondent in the second appeal and his son Vicky @ Vivek by the Thuthur Police Station based on the complaint made by the petitioner for the illegal attempts made by them to encroach upon the suit properties in spite of the order of interim injunction by this Hon'ble Court. On several occasions, the above said persons along with other rowdy elements attempted to interfere with the petitioners peaceful possession and enjoyment of the properties. The petitioner has made a representation dated 24.05.2022 to the District Collector, Ariyalur, and others including the 3rd Respondent herein for



the illegal and criminal activities of the said Sekar and his son against the petitioner including attempt to alienate the suit properties in spite of the order of injunction by this Court in the above said second appeal. Taking advantage of the inaction by the authorities, the said Sekar & others played fraud and alienated a portion of the suit property by way of Sale Deed Document No.1136 of 2022 dated 16.06.2022 to the third parties, for which, the 3rd Respondent is also a party to that perpetrated fraud. The 3rd Respondent accepted the document and registered the same in spite of the petitioner's complaint. On coming to know about the registration of the sale deed, by playing fraud, the petitioner gave a representation dated 30.08.2022 to the Respondents to take action against the registration of the sale deed by fraud and suppression of material facts more particularly restraint order by the this Court against the executant of the sale deed. The Respondents have not considered the representation and no action taken till date. Having left with no other efficacious alternative remedy, the petitioner is constrained to approach this Court under Article 226 of the Constitution of India seeking appropriate remedy.

5.The learned counsel appearing for the petitioner submitted that this Court may issued a direction to the respondents 2 & 3 to consider the petitioners representation dated 30.08.2022 and pass appropriate orders. The learned



counsel 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 **(2020) 6 CTC 697**

[N.Ramayee Vs. Sub-Registrar, Registration Department and Another].

6.The learned Special Government Pleader fairly submitted that admittedly the first appeal was allowed in favour of the private respondent and subsequently, the private respondent has presented a document for alienation and the same was entertained and appropriate orders was passed. It is duty of the Sub Registrar to entertain the document in terms of Section 22(a), 23(b) and 76 of the Registration Act. However, in the present case, no restraint order was passed against the Sub Registrar. In the absence of any restraint order, the document entertained by the third respondent cannot be found fault.

7.Heard the arguments advanced on either side and perused the materials available on record. Since no adverse orders are passed against the 4th respondent and therefore, her presence is dispensed with.

8.The facts in the present case is not in dispute. Admittedly, there was a



property dispute between the petitioner's father and his brothers. The petitioner

claims that his father filed a suit for declaration against his brothers in

O.S.No.230 of 1988 and the same was allowed in favour of the petitioner's father.

Against which, the aggrieved parties preferred appeal and the same was allowed

the judgment in respect of the suit was set aside. Challenging the same, the

petitioner's father filed second appeal before this Court and the same is pending.

According to the petitioner, when the interim order granted by this Court is in

force, the petitioner's father's brother alienated the property in favour of the 4th

respondent. Against which, the petitioner made a representation before the

respondents. As rightly submitted by the learned Special Government Pleader that

unless the restraint order is passed against the Sub Registrar, the Sub Registrar

cannot refuse to entertain the documents. Further, 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 Nalukarai Nattu Goundergal Sangam Vs. The Inspector

General of Registration and Others] and in (2020) 6 CTC 697 ***[N.Ramayee Vs.***

Sub-Registrar, Registration Department and Another], the relevant portion of

which reads as follows:

(i) **2021 (1) CTC 535 [Vadamugam Vellode
Nalukarai Nattu Goundergal Sangam Vs. The**



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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 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 21.02.2020. 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



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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)(2020) 6 CTC 697 [N.Ramayee Vs.

Sub-Registrar, Registration Department and Another]:

“46. Accordingly, we answer the reference as follows: If an agreement for sale is registered in respect of immovable property, the same will not be a bar for the owner of the property to effect subsequent transfers in respect of the same property. The



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Registrar has no right to refuse to register the document, except the documents relating to immovable properties mentioned in Section 22-A of the Tamil Nadu Act and as contemplated under Rule 162 of the Registration Rules.”

9. In the present case, the petitioner has not added his brother as a party in this petition, he simply mentioned as innocent purchaser, which is not sustainable one. Therefore, the prayer sought for by the petitioner cannot be granted and hence, the writ petition is liable to be dismissed.

10. The writ petition is accordingly dismissed. However, liberty is granted to the petitioner to work out his remedy where the Second Appeal is pending. No costs.

07.11.2022

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Internet:yes/No

Index:Yes/No

To

1. The Inspector General of Registration,



State Registration Department,
Santhome, Chennai 600 004.

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M.DHANDAPANI,J.

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2. The District Registrar,
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3. The Sub-Registrar,
Vikramangalam Sub Registrar Office,
Vikramangalam,
Ariyalur District.

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