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W.P.No.30140 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.30140 of 2022
and W.M.P.No.29574 of 2022

J.Naresh Kumar

... Petitioner

Vs.

1.The Sub-Registrar,
Office of the Sub-Registrar,
Thiruvottiyur,
Chennai – 600 019.

2. J.Hemapriya

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the 1st respondent from registering any document presented for registration by the 2nd respondent in respect of the property situated in (1) S.No.237/1 measuring an extent of 1272 $\frac{3}{4}$ and (2)measuring an extent of 1267 $\frac{1}{4}$ at Door No.17/16, South Mada Street, Thiruvottiyur, Chennai-19, in Thiruvallur District, Thiruvottiyur Taluk, in the office of the Sub-Registrar.

For Petitioner : Mr.S.P.Sudalaiyandi



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For Respondents : Mr.E.Vijay Anand for R1
Advocate Government Advocate

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ORDER

The petitioner has filed this writ petition to forebear the the 1st respondent from registering any document presented for registration by the 2nd respondent in respect of the property situated in (1) S.No.237/1 measuring an extent of 1272 $\frac{3}{4}$ and (2)measuring an extent of 1267 $\frac{1}{4}$ at Door No.17/16, South Mada Street, Thiruvottiur, Chennai-19, in Thiruvallur District, Thiruvottiur Taluk, in the office of the Sub-Registrar.

2.Since no adverse orders is being passed as against the 2nd respondent, notice to the 2nd respondent is dispensed with.

3.The case of the petitioner is that the petitioner and the 2nd respondent, sister of the petitioner are the owners of the property comprised in (1)S.No.237/1 measuring an extent of 1272 $\frac{3}{4}$ and (2)measuring an extent of 1267 $\frac{1}{4}$ by virtue of a registered Will executed by their maternal grandmother vide Doc.No.104 of 2002 dated 26.08.2022 on the file of the Office of the Sub Registrar, Thiruvottiur. After the demise of their maternal grandmother,



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the petitioner and the 2nd respondent were in absolute possession and enjoyment of the property. While so, the petitioner and the 2nd respondent executed two Settlement Deeds in favour of their parents, registered as Doc.No.3661 of 2014 dated 02.06.2014 and Doc.No.4609 of 2014 dated 02.07.2014 respectively. The petitioner further states that the petitioner's father died on 19.07.2019 leaving behind the petitioner, his sister/ 2nd respondent and their mother as his legal heirs, after his demise, the above said settled property devolves upon the legal heirs. While so, the 2nd respondent is attempting to sell the above settled property to the third parties without the consent of other legal heirs. Therefore, the petitioner made a representation dated 02.11.2022 to the 1st respondent to prevent the 2nd respondent from entering into any transaction in relation to subject matter of the property. Despite various requests made by the petitioner, the 1st respondent failed to consider his representation and hence, the petitioner has filed this present Writ Petition.

3. The learned counsel for the petitioner submits that the petitioner claims to be the owner of the property and the said property is being alienated



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by the 2nd respondent and therefore, the petitioner made a representation dated 02.11.2022 to the 1st respondent to prevent the 2nd respondent from entering into any transaction in respect to the subject property. The learned counsel further submitted that it would suffice that this Court may issue a direction to the respondents to consider the petitioner's representation and pass appropriate orders on the same.

4.Learned Additional Government Pleader appearing for the 1st respondent submitted that in the absence of any provisions, the petitioner's representation cannot be entertained. The remedy available to the petitioner is only to approach the competent Civil Court as against the Sub-Registrar and the private respondent.

5.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the 1st respondent.

6.The petitioner claims that the property in the (1) S.No.237/1 measuring an extent of 1272 $\frac{1}{4}$ and (2)measuring an extent of 1267 $\frac{1}{4}$ at



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Door No.17/16, South Mada Street, Thiruvottiyur, Chennai-19 belongs to the petitioner and the said property is being alienated by the 2nd respondent.

However, as rightly submitted by the learned Additional Government Pleader, in the absence of any provisions, no affirmative directions can be issued to the 1st respondent and hence, the prayer sought for in this Writ Petition cannot be granted. However, this Court grants liberty to the petitioner to approach the Competent Civil Court for appropriate remedy. No costs. Consequently, connected miscellaneous petition is dismissed.

14.11.2022

gba
Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

The Sub-Registrar,
Office of the Sub-Registrar,
Thiruvottiyur,
Chennai – 600 019.



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M.DHANDAPANI,J.

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