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W.P.No.30597 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.11.2022

C O R A M

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

W.P.No.30597 of 2022

1. K. Muniyan
2. K. Kotteeswaran
3. K. Veeraragavan
4. K.Venkatesan
5. Burri Muniamma
6. Lalitha

... Petitioners

Vs

1. The Inspector General of Registration,
No.100, Santhome High Road, Pattinapakkam,
Santhome Raj annamalai Puram,
Chennai – 600 028.

2. The Sub Registrar,
Registration Department,
Gummidipoondi Sub – Registrar Office,
Thiruvallur – 601 201

... Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned “ Refusal Check Slip” dated 28.10.2022 vide Refusal Number in TP/134250858/2022 on the file of the second respondent herein and quash the same and consequently direct the second respondent herein to register and release the partition Deed dated 03.10.2022 entered into between the petitioners within the time frame and pass orders.

For Petitioner ... Mr. N. Nithyanandam

For Respondent ... Mr.C. Kathiravan
Special 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 calling for the records relating to the impugned “ Refusal Check Slip” dated 28.10.2022 vide Refusal Number in TP/134250858/2022 on the file of the second respondent herein and quash the same and consequently direct the second respondent herein to register and release the partition Deed dated 03.10.2022 entered into between the petitioners.



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3. It is the case of the petitioners that the subject property is a ancestral property and the petitioners as legal heirs of the subject property executed partition deed and divided the property and when they presented the partition deed the second respondent refused to register the same for the reason vide Refusal Number in TP/134250858/2022 dated 28.10.2022 as there was objection from on Muniyan. Challenging the impugned Refusal Check Slip, the petitioner has come up with this Writ petition seeking the relief of quashment of the same.

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



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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.

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



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*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.

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



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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 the second Respondent/The Sub Registrar is directed to entertain the document on payment of necessary stamp duty and registration charges, if there is no restraint order. No Costs.

17.11.2022

smn

Index:Yes/No

Internet:Yes

Speaking/Non-Speaking order

To

1. The Inspector General of Registration,
No.100, Santhome High Road, Pattinapakkam,
Santhome Raj annamalai Puram,
Chennai – 600 028.

2. The Sub Registrar,

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M.DHANDAPANI, J.

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