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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.32414 of 2019

M.Thiyagarajan

... Petitioner

Vs.

1.The Inspector General of Registration,
O/o.The Inspector General of Registration,
Santhome High Road,
Mylapore,
Chennai - 4.

2.The District Registrar (Administration)
O/o.District Registrar,
Myladudurai.

3.The Sub Registrar
O/o.Sub Registrar,
Peralam,
Thiruvarur District.

4.M.Vijayregan

5.A.M.S.Jeyajudeen

6.The Tahsildar
O/o.Taluk Office,
Nannilam,
Thiruvarur District.

(R6 impleaded vide order dt. 19.01.2022
made in WMP.18413/2020 in
WP.32414/2019 by GKIJ)

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records in respect order of third respondent Na.Ka.No.265/2019, dated 04.11.2019 and quash the same and issue a direction to the third respondent to register the sale deed dated 13.03.2019 in respect of property in Old Survey No.91/2B2, New Survey No.91/2B2C, to an extent 2 Acre 94 Cents in Thirukottram Village, within Peralami Sub Registration District and



Registration District of Thiruvarur.

For Petitioner : Mr.R.Baskar

For Respondent : Mr.Yogesh Kannadasan for R1 to R3
Special Government Pleader
Mr.N.S.Sivakumar for R4 and R5

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O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the order of the third respondent in Na.Ka.No.265/2019, dated 04.11.2019 and to quash the same and to issue a direction to the third respondent to register the sale deed dated 13.03.2019 in respect of the property in Old Survey No.91/2B2, New Survey No.91/2B2C, to an extent 2 Acre 94 Cents in Thirukottram Village, within Peralami Sub Registration District and Registration District of Thiruvarur.

2.The case of the petitioner is that the legal heirs of one Ahamed Maraikayar leased out the subject property to the petitioner and the petitioner was cultivating paddy in the said lands. Whiles, the fourth respondent claimed himself as power of attorney of one Ayeshabanu and made attempt to dispossess the petitioner from the said land. Hence, the petitioner approached the Tahsildhar, Peralam who inturn referred the matter to the Revenue Divisional Officer, Thiruvarur and the Revenue Divisional Officer, Thiruvarur passed an order dated 12.04.2016 directing that both the parties should not enter the subject property since patta stands in the name of 13 members and appointed the Tahsildhar, Nannilam as receiver. Since the Tahsildhar, Nannilam did not take any action, the petitioner filed W.P.No.28969 of 2017 seeking direction to execute the order of the Revenue Divisional Officer, Thiruvarur and this Court vide order dated 15.03.2019 allowed the said writ petition.

3.The further case of the petitioner is that the fourth respondent

filed suit in O.S.No.66 of 2016 on the file of the District Munsif, Nannilam as against the District Collector, Thiruvarur and the Revenue Divisional Officer, Thiruvarur, for declaration of title. The fourth respondent also filed suit against the petitioner in O.S.No.65 of 2018 on the file of the District Munsif, Nannilam, for permanent injunction.

4.The further case of the petitioner is that in the meanwhile, the legal heirs of the said Ahamed Maraikayar sold



the subject property to the petitioner and also executed sale deed dated 13.03.2019 in favour of the petitioner. The said sale deed was presented for registration before the third respondent, however the third respondent did not release the document. Hence, the petitioner gave representation to the respondents 1 and 2 and the second respondent issued a letter dated 01.11.2019 to the third respondent to decide the matter expeditiously. Thereafter, the third respondent passed the impugned order. Aggrieved by the same, the petitioner has filed this writ petition.

5.The learned counsel appearing for the petitioner submitted that though the fourth respondent filed O.S.No.66 of 2016 on the file of the District Munsif, Nannilam as against the District Collector, Thiruvarur and the Revenue Divisional Officer, Thiruvarur, for declaration of title, the fourth respondent did not implead the petitioner or Ahamed Maraikayar in the said suit and did not obtain any interim order in his favour. Further, the fourth respondent did not implead the third respondent as party in any suit. The learned counsel further submitted that in the absence of any interim order in the suit filed for declaration, the impugned order issued by the third respondent is non-est in law.

6.The learned counsel appearing for the respondents 4 and 5 submitted that though the fourth respondent did not obtain any order restraining the third respondent to register the document, there are several interested persons and hence the impugned order does not warrant any interference.

7.The learned Special Government Pleader appearing for the respondents 1 to 3 fairly submitted that though the third respondent has power to refuse a document in terms of Sections 71 and 76 of the Registration Act, this Court may permit the petitioner to re-present the document and after verification of the entire records in terms of Sections 71 and 76 of the Registration Act, appropriate orders will be passed.

8.Heard the arguments advanced on either side and perused the materials placed on record.

9.The facts in the present case is not in dispute. The legal heirs of one Ahamed Maraikayar leased out the subject property to the petitioner and the petitioner was cultivating paddy in the said lands. Whiles, the fourth respondent claimed himself as power of attorney of one Ayeshabanu and made attempt to dispossess the petitioner from the said land. Hence, the petitioner approached the Tahsildhar, Peralam who inturn referred the matter to the Revenue Divisional Officer, Thiruvarur and the Revenue Divisional Officer, Thiruvarur passed



an order dated 12.04.2016 directing that both the parties should not enter the subject property since patta stands in the name of 13 members and appointed the Tahsildhar, Nannilam as receiver.

10.The fourth respondent filed suit in O.S.No.66 of 2016 on the file of the District Munsif, Nannilam as against the District Collector, Thiruvarur and the Revenue Divisional Officer, Thiruvarur, for declaration of title. However, the fourth respondent did not implead the petitioner or Ahamed Maraikayar in the said suit and did not obtain any interim order in his favour. The fourth respondent also filed suit against the petitioner in O.S.No.65 of 2018 on the file of the District Munsif, Nannilam, for permanent injunction.

11.In the meanwhile, the legal heirs of the said Ahamed Maraikayar sold the subject property to the petitioner and also executed sale deed dated 13.03.2019 in favour of the petitioner.

12.The grievance of the petitioner is that the third respondent refused to register the document on the premises that suit is pending before the competent civil Court. However, the fact remains that there is no restrained order as against the third respondent for entertaining the document. Unless there is restrained order, refusing to register the document is not sustainable one. In view of the above, the third respondent not entertaining the registration of the document which was presented by the petitioner is not sustainable one.

13.Hence, the impugned order passed by the third respondent dated 04.11.2019 is set aside and the matter is remanded back to the third respondent for fresh consideration. The petitioner is directed to re-present the document before the third respondent. Liberty is granted to the private respondents namely, respondents 4 and 5, to produce the restrained order, if any, obtained by them before the third respondent. If the private respondents did not produce any restrained order, it is open to the third respondent to stand by the terms of the Registration Act.

14.With the above observations, the writ petition stands allowed. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector General of Registration,
O/o.The Inspector General of Registration,
Santhome High Road,
Mylapore,
Chennai - 4.

2.The District Registrar (Administration)
O/o.District Registrar,
Myladudurai.

3.The Sub Registrar
O/o.Sub Registrar,
Peralam,
Thiruvavarur District.

4.The Tahsildar
O/o.Taluk Office,
Nannilam,
Thiruvavarur District.

+1cc to Mr.R.Baskar, Advocate, S.R.No.7820
+1cc to the Government Pleader, S.R.No.8351

W.P.No.32414 of 2019

GMR(CO)
SB(11/03/2022)