



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.6518 of 2022

and W.M.P. (MD) .No.5051 & 5052 of 2022

WEB COPY

M/s.Kremmer Sandagren Foundation,
Represented by its Registered Power Agent R.Sudakar,
Son of Rasu,
D.No.1/13, Kadathivayal Village,
Idaiyur Post,
Avudaiyarkovil Circle,
Pudukottai District.

.. Petitioner

Vs

1.The Sub-Registrar,
Thondi Sub-Registration Office,
Ramanathapuram District.

2.The Executive Officer,
Thondi Major Panchayat,
Thondi,
Ramanathapuram District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the 2nd respondent under Na.Ka.No.24/2021, dated 26.03.2021, which is registered as Thava Manu No.11/2021, on the file of the 1st respondent and quash the same and further direct the 1st respondent to remove the entries in Book-I under Thava Manu No.11/2021, dated 26.03.2021.

For Petitioner : Mr.K.R.Laxman

For Respondents : Mr.J.John Rajadurai for R1
Government Advocate

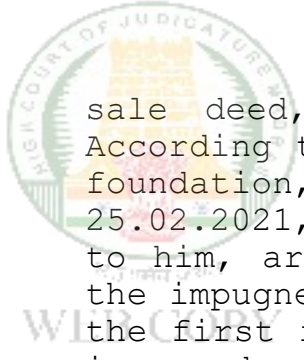
Mr.C.Satheesh for R2
Government Advocate

ORDER

This writ petition has been filed challenging the communication sent by the second respondent, dated 26.03.2021, to the first respondent, requesting the first respondent not to register any document pertaining to the property measuring an extent of 0.20 hectares equivalent to 50 cents comprised in S.No.70/1B, at Chinna Thondi Village, Thondi Town Panchayat.

2.According to the petitioner, the aforementioned property is absolutely owned by M/s.Kremmer Sandagren Foundation, by virtue of a

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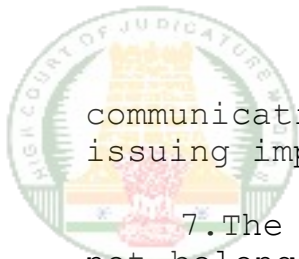
sale deed, dated 24.01.1964, registered as document No.52/1964. According to the petitioner, he is the power agent of the aforesaid foundation, having got a power of attorney in his name on 25.02.2021, registered as document No.292/2021. However, according to him, arbitrarily and illegally without any authority under law, the impugned communication has been sent by the second respondent to the first respondent. In such circumstances, he has challenged the impugned communication, which is detrimental to the petitioner's interest in this writ petition.

3.Heard Mr.K.R.Laxman, learned counsel appearing for the petitioner, Mr.J.John Rajadurai, learned Government Advocate, who accepts notice on behalf of the first respondent and Mr.C.Satheesh, learned Government Advocate, who accepts notice on behalf of the second respondent.

4.The petitioner has filed a copy of the sale deed, dated 24.01.1964, standing in the name of M/s.Kremmer Sandagren Foundation and also the copy of the power of attorney executed in his favour by M/s.Kremmer Sandagren Foundation. According to him, arbitrarily and illegally without any authority under law, the impugned communication has been sent by the second respondent to the first respondent directing the first respondent not to register any document pertaining to the aforementioned property, which according to the petitioner, is absolutely owned by M/s.Kremmer Sandagren Foundation. According to him, without an opportunity of hearing to the owner of the property, the said communication has been sent by the second respondent to the first respondent. It is also the contention of the petitioner that the communication sent by the second respondent to the first respondent, which is impugned in this writ petition has also been reflected in the Encumbrance Certificate for the subject property, which is also illegal.

5.Per contra, the learned Government Advocate appearing for the first respondent would vehemently oppose the grant of any interim order by this court. He seeks time to file a detailed counter. He would also submit on instructions that the subject property does not belong to M/s.Kremmer Sandagren Foundation as alleged by the learned counsel for the petitioner, but it belongs to the second respondent. Only in those circumstances, the impugned communication was sent by the second respondent to the first respondent.

6.Admittedly, there are registered documents pertaining to the subject property. The petitioner claims that by virtue of a sale deed, dated 24.01.1964, registered as document No.52/1964, M/s.Kremmer Sandagren Foundation, is the owner. There is also a power of attorney executed in favour of R.Sudakar, appointing as a power agent for the subject property, which is dated 25.02.2021, registered as document No.292/2021, on the file of the same Sub Registrar's Office. While there are registered documents pertaining to the subject property, which is the subject matter of the impugned



communication, the petitioner ought to have been heard before issuing impugned communication.

7.The contention of the respondents is that the property does not belong to the petitioner, but belongs to the second respondent. Since no opportunity of hearing was granted to the petitioner before passing of the impugned communication, which bars the first respondent from entertaining any registration pertaining to the subject property, this Court is of the considered view that the impugned communication will have to be quashed and the matter has to be remanded back to the first respondent for fresh consideration on merits and in accordance with law.

8.However, since it is categorically contended by the learned Government Advocate appearing for the first respondent as well as the learned Government Advocate, appearing for the second respondent that the property does not belong to the petitioner and belongs to the Town Panchayat, this Court is of the considered view that no further alienation / registration can take place with regard to the subject property till final orders are passed by the first respondent, pursuant to the order of remand passed by this Court.

9.For the foregoing reasons, the impugned communication, dated 26.03.2022, sent by the second respondent to the first respondent is hereby quashed and the matter is remanded back to the first respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner, including granting him the right of personal hearing. However, it is made clear that the first respondent shall not entertain any registration pertaining to the property, till final orders are passed, pursuant to the order of this Court. The first respondent is directed to pass final orders, within a period of twelve weeks from the date of receipt of a copy of this order.

10.With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

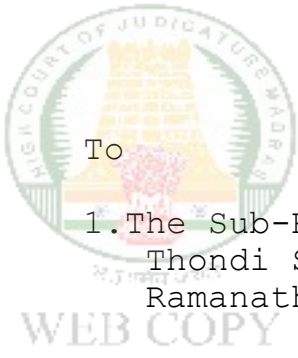
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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.



To

1.The Sub-Registrar,
Thondi Sub-Registration Office,
Ramanathapuram District.

2.The Executive Officer,
Thondi Major Panchayat,
Thondi,
Ramanathapuram District.

+1 CC to M/s.K.R. LAXMAN, Advocate (SR-17567[F] dated 08/04/2022)

+1 CC to M/s.SPL.GP (SR-17891[F] dated 11/04/2022)

W.P. (MD) No. 6518 of 2022
08.04.2022

MGJ(19.04.2022) 4P 5C