



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.12482 of 2022

Manoranjitham

... Petitioner

Vs.

1. The District Registrar,
Theni District, Theni.

2. The Sub Registrar,
Andipatti Sub Registrar Office,
Andipatti, Theni District.

3. Guruvammal

... Respondents

Prayer: Writ petition is 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 of the refusal check slip passed by the second respondent in Refusal No.RFL/Andipatti/12/2022 dated 13.06.2022 and to quash the same as illegal, consequently direct the second respondent to register the memorandum of deposit of title deeds dated 08.06.2022 presented by the petitioner in accordance with law and within the time frame fixed by this Court.

For Petitioner : Mr.C.Susikumar
For R-1 & R-2 : Mr.J.K.Jayaseelan,
Government Advocate.
For R-3 : No appearance.
* * *

O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned Government Advocate appearing for respondents 1 and 2.

2. Though the third respondent has been served and her name is printed in the cause list, she has not chosen to enter appearance.

3. The petitioner approached a financial institution for availing housing loan. Loan was sanctioned subject to deposit of title deeds. The financial institution also insisted that the memorandum of deposit of title deeds should be registered. Therefore, it was presented before the second respondent for registration. The second respondent declined to register the memorandum of deposit of title deeds on the ground that the third



respondent herein had filed O.S.No.78 of 2019 before the District Munsif Court, Andipatti. The refusal check slip was issued to that effect. Challenging the same, this writ petition came to be filed.

4. The learned Government Advocate appearing for respondents 1 and 2 relies on the circular issued by the Inspector General of Registration on 04.10.2018 in which it had been set out therein that if the registering authority is a party to a civil suit, then the document in question ought not to be registered.

5. Though the circular issued by the Inspector General of Registration is to that effect, the issue raised in this writ petition is covered by an order dated 11.09.2020 made in W.P.(MD) No.12585 of 2020 (Vadamugam Vellode Nalukarai V. The Inspector General of Registration, Registration Department, Chennai). A learned Judge of this Court in the aforesaid order held as follows:-

"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 injuncting 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 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."

6. The case on hand is absolutely similar. The jurisdictional civil Court has not passed any interim order restraining the second respondent from registering any document in respect of the suit property. Therefore, respectfully following the aforesaid order, the impugned refusal check slip is quashed. This writ petition stands allowed. The second respondent is directed to register the petition



mentioned memorandum of deposit of title deeds dated 08.06.2022
subject to fulfillment of the usual formalities. No costs.

Sd/-

Assistant Registrar (Records)

WEB COPY

// True Copy //

30/06/2022

Sub Assistant Registrar(CS)

PMU

To:

1. The District Registrar,
Theni District, Theni.
2. The Sub Registrar,
Andipatti Sub Registrar Office,
Andipatti, Theni District.

+1 CC to M/s.C. SUSIKUMAR, Advocate (SR-29103[F] dated 30/06/2022)

+1 CC to M/s.SPL.GP (SR-29039[F] dated 30/06/2022)

W.P. (MD) No.12482 of 2022

29.06.2022

SE (CO)

MGJ(30.06.2022) 3P 5C