



W.P.(MD)No.16906 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.16906 of 2019

G.Marimuthu

... Petitioner

Vs

1.The Inspector General of Registration,
Shanthom High Road,
Chennai-600 028.

2.The District Registrar,
Virudhunagar Registration District,
Virudhunagar,
Virudhunagar District.

3.The Sub-Registrar,
Sub-Registrar Office,
Subramaniyapuram,
Pattukottai District.

4.The Sub-Registrar,
Joint No.2 Sub Registrar Office,
Virudhunagar,
Virudhunagar District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the fourth respondent to release the sale deed dated 25.02.2019 vide pending document No.25/2019 within the time frame fixed by this Court.



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For Petitioner : Mr.R.Rajaraman

For Respondents : Mr.S.R.A.Ramachandran
Additional Government Pleader

ORDER

The petitioner has prayed for issuance of a Writ of Mandamus, directing the fourth respondent to release the sale deed dated 25.02.2019 vide pending document No.25/2019 within the time frame fixed by this Court.

2.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3. The learned counsel appearing for the petitioner would submit that one Ramanatha Sethupathi, son of Rajamanickam through its power agent Muniyasamy, son of Arjuna Thevar executed a sale deed in respect of properties which comprised one part at Virudhunagar District and another part at Puthukottai District, Pattukottai registration District on 25.02.2019 and which was registered before the fourth respondent in pending document No.25/2019. But after the property purchased by the petitioner, the third respondent failed to release the document and by orally told that the civil suit is pending. The Sub-Registrar is the statutory authority, who is act in accordance with the mandate



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of the act. Mere pendency of the civil suit cannot prohibit the statutory

authority of the Sub-Registrar power to register the document under the act.

4. The petitioner executed a sale deed in respect of properties in Survey No.368/1 in patta No.230 to an extent of 1 acre 06 cent and in other document 1 acre 41 cents in survey No.24/1B2 and 1 acre 98 cents in survey No.24/1B4 and the same was not registered and they simply refused to register the same on the ground that civil suit is pending. As per Rule 71 of the Registration Rules, the reasons for refusal to register to be recorded. According to the petitioner, it is only a oral refusal and hence, the petitioner has filed the present writ petition on the ground that the authority cannot refused to release the document under Rule 55 and 71 of the Registration Rules.

5. The fourth respondent has filed counter affidavit. The learned Additional Government Pleader appearing for the respondents would submit that the writ petition is not maintainable in the eye of law for the simple reason that the petitioner has come before this Court without exhausting the statutory appeal remedy available in the statue. Without exhausting the appeal remedy, he cannot file the writ petition. Against the order of refusal to register made by the Sub-Registrar, appeal provisions are available under Section 72 of the



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Registration Act, 1908. He would further submits that the subject document of

the petitioner relates to properties situate in 2 different Sub-Districts viz., Joint No.2 Virudhunagar and Subramaniyapuram of Pattukkottai District. The subject document was, as permitted in section 28 of the Registration Act, 1908, presented for registration at the 4th respondent office. The document was admitted as pending document, assigning pending document No.25/2019, registration being suspended. The fourth respondent made a reference to the third respondent to furnish market value of the property lying in his jurisdiction and also the details regarding other legal impediments. In view of the provisions contained in rule 55 of the Registration Rules, the registering officer is not expected to examine the right of the person executing the document. In order to curtail the increasing number of fraudulent registration, the Inspector General of Registration, Chennai in his circular No.18339/C1/2012, dated 25.04.2012 has instructed the Registering Officers to examine original title deeds etc., to satisfy himself about the right of executant of the document sought to be registered. He would further submit that this Hon'ble Court in its order, dated 18.11.2013 made in Writ Appeal (MD)No.710 to 713 of 2010 have held that when there is cloud or suspicion over the alleged title of the executant, it may be verified by the registering officer. The Hon'ble Court have also held that such verification is well within the contours of the circulars of the



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state in this regard and the Court have not directed the Registering authority to go by Rule 55 of the Registration Rules. The fourth respondent could not satisfy himself about the right and ownership of the executant of the instant document due to the communication received from the third respondent. Therefore, the fourth respondent has refused to register the petitioner's document. The refusal order made by the fourth respondent is in order and legal. However, statutory appeal remedy is available to the petitioner against the refusal order. But instead of availing the statutory appeal remedy, the petitioner has come before this Court with the present writ petition.

6. In view of the above submission made by the learned Additional Public Prosecutor appearing for the respondent, this Court directs the petitioner to approach the appellate authority by way of filing an appeal.

7. With the above direction, the writ petition is disposed of. No costs.

Index : Yes/No
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To

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V.BHAVANI SUBBAROYAN, J.

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