



W.P.No.951 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2023

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.No.951 of 2018

P.Palanisamy

... Petitioner

Vs.

1. The District Registrar,
O/o The District Registrar,
Gobichettypalayam – 638 452.

2. The Sub Registrar,
Gobichettypalayam – 638 452.

3. Nagammal

4. K.Miniammal

5. P.K.Sakthivel

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ, Order or direction specifically Writ in the nature of Writ Cetrriorarified Mandamus, calling for the records pertaining to the impugned order made in Na.Ka.No.2277/A1/2017 dated 26.10.2017 passed by the first respondent, quash the same and consequently direct



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the second respondent to adhere the mandate of the Tamil Nadu Registration Act, 1908, as far as the registration of the petitioner's property is concerned.

For Petitioner : Mr.D.R.Arunkumar

For R3 to R5 : Mr.Mariappan

For R1 & R2 : Mr.Yogesh Kannadasan
Special Government Pleader

* * * * *

ORDER

This Writ Petition has been filed to issue a Writ of Cetrriorarified Mandamus, to call for the records pertaining to the impugned order made in Na.Ka.No.2277/A1/2017 dated 26.10.2017 passed by the first respondent and to quash the same and consequently direct the second respondent to adhere the mandate of the Tamil Nadu Registration Act, 1908, as far as the registration of the petitioner's property is concerned.



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2. According to the petitioner sale deed was executed on 26.03.2015 on the strength of the sale agreement dated 12.01.2015 and he presented the document for registration before the second respondent/Sub Registrar and the same was returned for want of signature of some of the vendors. Subsequently, he made an application on 23.07.2015 before the second respondent for compulsory registration. The second respondent returned the same on the ground that stipulated time under Registration Act is lapsed. Thereafter he filed an appeal before the first respondent and the same was also dismissed by the first respondent. Hence the present writ petition.

3. Learned counsel appearing for the private respondents stated that the petitioner has not paid the entire consideration as agreed by him. Though the petitioner promised to pay the balance sale consideration at the time of registration, he did not pay the same. Therefore, they did not sign in the document and did not appear before the Registrar for executing the document.



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4. The Official respondents also filed their counter stating that despite notice was sent on 20.10.2015, calling to appear in person for registration of the document, the respondents 3 to 5 did not appear and therefore, the Sub-Registrar has refused to register the document.

5. Considering the counter affidavit filed by the official respondents and the submissions made by the private respondents, it is found that the entire sale consideration has not been passed on to the respondents 3 to 5 and therefore, they refused to register the document. Though learned counsel for the petitioner submitted that neither opportunity was given nor enquiry was conducted, from the counter filed by the official respondents, it is very clear that though notices were sent to the vendors, they refused to appear before the Registrar. Therefore, whether the notice was sent, whether the respondents 3 to 5 appeared or not, whether consideration was passed on the respondents 3 to 5 or not, whether they executed the sale deed or not, are all the question of facts, and the same cannot be decided in a writ petition. It has to be proved before the Civil Court by letting oral and documentary evidence.



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6. Under the above circumstances, the Writ Petition is not maintainable. Hence, the Writ Petition is dismissed. No costs. However, the petitioner is at liberty to work out his remedy in the manner known to law.

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

1. The District Registrar,
O/o The District Registrar,
Gobichettypalayam – 638 452.
2. The Sub Registrar,
Gobichettypalayam – 638 452.



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P.VELMURUGAN, J.

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