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W.P.No.28570 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.28570 of 2023

K.C.Mohan
S/o.K.S.Chinnaraj

... Petitioner

versus

1. The Sub-Registrar
Joint SRO II, Krishnagiri
Krishnagiri.

2. Jani Basha
S/o.Mohammed Khan

.....Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order RFL/2 dated 07.09.2023 passed by the 1st respondent herein refusing the registration of the sale deed presented for registration and quash the same and consequently, directing the 1st respondent to register the document sale deed dated 05.09.2023 in respect of his property situated in S.Nos.124/8A measuring an extent of Acre 1.30 ½ cents 124/6 & 7



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measuring an extent of 35 cents situated in Gangaleri Village, Krishnagiri Taluk & District in accordance with law.

For Petitioner : Mr.M.Abdul Razack
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader
For R1
Mr.T.M.Hariharan, for R2

ORDER

This writ petition has been filed to quash the impugned order dated 07.09.2023 bearing reference No.RFL/2 passed by the first respondent herein refusing the registration of the sale deed presented for registration and consequently, directing the first respondent to register the sale deed dated 05.09.2023 in respect of the petitioner's property situated in S.Nos.124/8A measuring an extent of Acre 1.30 ½ cents and S.Nos.124/6 & 7 and measuring an extent of 35 cents situated in Gangaleri Village, Krishnagiri Taluk & District in accordance with law.

2.1 According to the petitioner, the petitioner is the absolute owner



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of the property situated in Survey No.124/8A, measuring an extent of acres 1.30 ½ cents and property comprised in Survey Numbers 124/6 and 124/7 measuring an extent of 35 cents, including the right to use the passage in Survey Numbers 124/4, 124/3B and 124/8A of Gangaleri Village, Krishnagiri Taluk & District, having purchased the same under a valid registered sale deeds dated 17.08.2021 and 11.07.2022 vide Document Nos.2711 of 2021 and 3043 of 2022. The petitioner's vendor acquired the said properties under a registered sale deed dated 24.08.2007 vide Document No.2639 of 2007 on the file of the SRO-II, Krishnagiri.

2.2. The petitioner's predecessors were in continuous possession of the aforesaid properties from the year 1976 and the revenue records namely, Patta, 'A' Register of the said Gangaleri village reflects the name of the petitioner's vendors and the petitioner's predecessors in title were having the absolute right and enjoyment over the said properties. In order to sell the aforementioned properties, the petitioner executed a sale deed in respect of said properties in favour of one Mr.Sadiq Basha on 05.09.2023 and presented the sale deed for registration under Section 32 of the Registration



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Act, 1908 by paying necessary stamp duty and registration fee with the first respondent herein. After presentation of the document for registration, the first respondent refused to register the document and returned the document with a refusal check list dated 07.09.2023 stating that a civil suit in O.S. No.111 of 2023 is pending before the Principal Sub Court, Krishnagiri in respect of S.No.124/8A of Kangaleri Village and therefore, registration in the said survey number could be entertained only after the disposal of the above suit. On verification of the plaint in O.S.No.111 of 2023, it is found that the second respondent herein filed the suit in respect of larger extent of properties including Survey Number 124/8 against one John and 12 others seeking for the relief of partition and declaration. However, neither the petitioner herein nor his predecessors in title were made as parties to the suit and no documents were filed by the second respondent to claim his relief in respect of the properties comprised in Survey No.124/8A. Since the first respondent refused to register the sale deed presented for registration on 07.09.2023 without any valid reasons, the petitioner approached this Court by filing the present writ petition.



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3. Learned counsel for petitioner submitted that mere filing of a suit by a person, who is not having any right over the property cannot prevent the first respondent from registering the property. Learned counsel for petitioner further submitted that the first respondent has failed to note that no relief is sought by the second respondent in O.S.No.111 of 2023 on the file of the Principal Sub-Court, Krishnagiri in respect of the petitioner's sale deed or his parent document and hence, refusal to register the sale deed by the first respondent is bad in law.

4. Learned Special Government Pleader for the first respondent submitted that when a suit pertaining to the subject property is pending before the Principal Sub-Court, Krishnagiri, the first respondent has no power to register any documents related to the disputed property.

5. It is seen that second respondent herein filed the suit in O.S.No.111 of 2023, in which, the petitioner is not a party, however, the property in S.No.124/8 measuring an extent of 0.930 hectares is included as one of the suit properties. The petitioner sought for registration of the document which



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pertains to S.No.124/8-A forms part of Survey No.124/8. Therefore, the Registrar has refused to register the document stating that the suit is pending and after disposal of the suit, the document can be registered. Admittedly, the petitioner was not made as a party in the said suit. Since the suit is pending in respect of larger extent of the said survey, the first respondent has rightly refused to register the document and hence, there is no merit in this writ petition.

6. Accordingly, this Writ Petition is disposed of. However, the writ petitioner is at liberty to work out his remedy in the manner known to law. There shall be no order as to costs.

20.10.2023

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To

The Sub-Registrar
Joint SRO II, Krishnagiri
Krishnagiri.

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