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Order dated 07.11.2023 in
W.P.No.30041 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.11.2023

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.30041 of 2023

M.Manigandan

.. Petitioner

Vs.

1. Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.
2. Deputy Inspector General of Registration,
Integrated Building of Registration Department,
Veppamara Street, Velppadi,
Vellore-632 00
3. District Registrar,
"Jawans Bhawan"
Department of Ex-Servicemen's Welfare,
Vellore Main Road
Thiruvannamalai District-606 604.
4. Sub-Registrar - Joint 2,
Anna Salai, Thiruvannamalai-606 601.
5. Tmt.Baby,
Inspector of Police,
DCB-II, Thiruvannamalai.
(Fifth respondent suo-motu impleaded as per
order of the Court, dated 17.10.2023
made in W.P.No.30041 of 2023)

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying

Page No.1/14



Order dated 07.11.2023 in
W.P.No.30041 of 2023

for issuance of a Writ of Mandamus to direct the respondents 1 to 4 herein to receive and register the document being sale deed dated 15.07.2023 executed by one V.Silambarasan in favour of the petitioner in respect of the property consisting of land and building at Plot No.3A, having an extent of 1350 Sq.Ft. comprised in Survey No.141/1B, New Survey No.187/4B (present Survey No.187/4B1A1, Vengivasal Village, Tiruvannamalai District, which was indexed having reference in TP/156068484 in TN registration Portal.

For petitioner : Mr.S.Bhargavan

For respondents: Mr.Yogesh Kannadasan, Spl.G.P. for RR-1 to 3

Mr.S.Sugendran, Addl.P.P. for R-4

Fifth respondent - present in Court

Ms.R.Kavitha, Inspector of Police, DCB-I, Tvm, Dist.

- present in Court

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents 1 to 4 herein to receive and register the document being sale deed dated 15.07.2023 executed by one V.Silambarasan in favour of the petitioner in respect of the property consisting of land and building at Plot No.3A, having an extent of 1350 Sq.Ft. comprised in Survey No.141/1B, New Survey No.187/4B (present Survey No.187/4B1A1,



Order dated 07.11.2023 in
W.P.No.30041 of 2023

Vengivasal Village, Tiruvannamalai District, which was indexed having reference in TP/156068484 in TN registration Portal.

2. The facts in brief are as under:

(i) One V.Silambarasan is the petitioner's family friend and he is involved in the business of Share Trading and Private Finance. In the year 2002, for the purpose of his business, he borrowed a sum of Rs.30 lakhs from the petitioner's nephew one Mr.A.Sabarirajan by mortgaging his immovable property being land and building at Plot No.3A, having an extent of 1350 Sq.Ft. comprised in Survey No.141/1B, New Survey No.187/4B (present Survey No.187/4B1A1, Vengivasal Village, Tiruvannamalai District, under mortgage deed dated 11.10.2022 registered as Document No.130004/2022 on the file of Sub-Registrar, Joint-2, Tiruvannamalai for loanamount of Rs.30 lakhs. Thereafter, the said Silambarasan could not repay the loan amount an decided to sell his property to the petitioner by adjusting the mortgage amount towards sale consideration with the consent of the petitioner's nephew. Accordingly, a sale deed dated 15.07.2023 was executed by the said Silambarasan in favour of the petitioner and for the purpose of registration of sale deed, they planned initially to cancel the mortgage and then to proceed with the registration of sale deed on the same date. Accordingly the cancellation of mortgage deed was done on 15.07.2023 by way of registration of receipt dated 15.07.2023 as Document

Page No.3/14



Order dated 07.11.2023 in
W.P.No.30041 of 2023

No.9721/2023 before the Sub-Registrar, Joint 2, Thiruvannamalai and subsequently, the sale deed dated 15.07.2023 was executed by the said Silambarasan and the sale deed was presented before the fourth respondent for registration as Token No.10(D-310) in time slot of 12.00-13.00 in for TP/156068484/2023 with all the required compliances and necessary annexure.

(ii) The fourth respondent before whom the document was presented for registration, verified all the papers and started to proceed with the other routine process of registration, such as taking photographs and signatures, etc. Suddenly, the fourth respondent stopped registration on the ground that there was a communication dated 18.5.2023 from Inspector of Police, Crime Branch, Tiruvannamalai with regard to a complaint made by one Vinodh Kumar against the petitioner's vendor Silambarasan, was under investigation by him and therefore, he had directed the fourth respondent not to register any document in connection with the properties of the said Silambarasan. In view of the said communication, dated 28.05.2023, the fourth respondent stated that registration could not be done without obtaining "No Objection" from the Inspector of Police, Crime Branch, Tiruvannamalai. Hence, the fourth respondent removed all the printed sheets attached for the purpose of making any endorsement mentioning the reason for refusal made by him. In spite of repeated requests, the fourth respondent refused to register the document or even to make an endorsement for



Order dated 07.11.2023 in
W.P.No.30041 of 2023

return.

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(iii) On seeing the said communication dated 18.05.2023, it does not reveal any FIR or case number and the nature of complaint or involvement of the property with the investigation process and also does not mention any reason to prevent registration. The petitioner's vendor had not been served with any notice in this regard and he has no knowledge of the complaint pending before the Crime Branch.

(iv) Even assuming that a criminal complaint is pending for investigation, the concerned investigating officer, except by way of judicial order, has not been vested with powers to restrain or with-hold registration authority from registering a document in respect of the property of the accused and this Court has held in many cases that the Sub-Registrar cannot refuse registration on that ground. Therefore, the communication dated 18.05.2023 of Inspector of Police, Crime Branch, Tiruvannamalai is without jurisdiction.

(v) The Registering Officer has no power to refuse registration of document and only in certain circumstances, if the document is found contrary to public policy or in violation of the applicable law, or if it falls under the provisions of Section 22-A of the Registration Act. Even in such case, the Sub-Registrar is bound to make proper endorsement mentioning the reason for return. While that being so, the action of the fourth respondent is against law, as



Order dated 07.11.2023 in
W.P.No.30041 of 2023

the fourth respondent failed to follow the procedures contemplated under the Registration Act either for the purpose of registration or for returning the document presented before him. In view of the refusal of registration by the fourth respondent, the petitioner made a representation to the respondents 1 to 3 on 19.07.2023 requesting to pass appropriate orders in the matter. But there was no response and no reply was received. Hence, the present Writ Petition is filed for the relief stated supra.

3. The fourth respondent has filed counter affidavit stating that he received objection letter by way of communication dated 18.05.2023 from the Inspector of Police, District Crime Branch, Tiruvannamalai District, stating that the property contained in the document, namely the property in question is involved in a criminal complaint and hence, intimated the fourth respondent to desist from registering any document pertaining to the said property till the disposal of the criminal complaint. Hence, the fourth respondent directed the petitioner to get "No Objection" from the said Police, which has not been done by him.

4. The fifth respondent has filed status report, dated 07.11.2023 stating that she is the enquiry officer of the subject matter case in current paper No.K2/9617/1411/SPG/23, dated 24.04.2023 and all the proceedings are



Order dated 07.11.2023 in
W.P.No.30041 of 2023

conducted by her. The complaint dated 24.04.2023 was received to the Inspector of Police, DCB-I, Tiruvannamalai, through Superintendent of Police, Tiruvannamalai. The said complaint is in inquiry by allotting the current paper stated above. In the said complaint, the complainant S.Vinoth Kumar has made allegations against one V.Silambarasan, who is the proposed vendor of the petitioner herein. The said Vinoth Kumar allege that the said Silambarasan has induced him to invest amount in his business called JSVIN Smart Ventures, so that he will give double the amount invested within three months' time. Based upon the promise given by the said Silambarasan, the complainant Vinoth Kumar mortgaged his house property and invested Rs.7 lakhs (Rs.5,50,000 through Bank and Rs.1,50,000/- through Hand cash). However, the said Silambarasan did not keep his promise and cheated the complainant. Hence, the complainant made allegation that with the cheated amount, the said Silambarasan purchased the property under dispute. While that being so, as an inquiry officer, the fifth respondent issued summons on 26.04.2023, 01.05.2023 and 12.05.2023 to the said V.Silambarasan for three times, but however, he did not turn up for inquiry in the current paper proceedings. Therefore, under bona-fide intention of securing the cheated amount, the fifth respondent gave a letter dated 18.05.2023 to the Sub-Registrar, Tiruvannamalai to stop the registration process of the subject matter property until completion of inquiry. However, the fifth



Order dated 07.11.2023 in
W.P.No.30041 of 2023

respondent's intention is to conduct proper inquiry in order to safeguard the interest of the victim, other than that, the fifth respondent has no impediment over the subject matter property.

5. It is further stated by the fifth respondent in her status report that in the meanwhile, her husband died on 06.10.2023 due to heart ailment, and therefore, one Mrs.Babu, Inspector of Police, District Crime Branch-II was appointed as in-charge Inspector. Hence, the inquiry could not be completed and all the inquiry proceedings were initiated by the fifth respondent. The fifth respondent took charge from 06.11.2023 and assures that the inquiry in the case would be completed soon. For the bona-fide reasons, and to safeguard the victim and to conduct property inquiry, the fifth respondent gave letter dated 18.05.2023 to the Sub-Registrar, Tiruvannamalai, objecting future registration of subject matter property until the completion of the inquiry.

6. Learned counsel for the petitioner submitted that the petitioner is the purchaser of the land from the said Silambarasan and executed the document. At that time, the fourth respondent stated that there is an encumbrance over the property in question and that there was some mortgage in the encumbrance certificate regarding the mortgage between the vendor Silambarasan and Sabarirajan. He has also paid Rs.30 lakhs to Sabarirajan and parties have entered into document for registration and complied with all the formalities. But



Order dated 07.11.2023 in
W.P.No.30041 of 2023

the fourth respondent refused to register the document, and he has no authority to refuse to register the document and only Section 22-A of the Registration Act clearly stated that the documents which fall under that only can be refused to be registered by the Sub-Registrar and document do not fall under Section 22-A and therefore, the Sub-Registrar has to register the document and the fifth respondent-Police has no authority to stop the registration and based on the complaint or letter, the fourth respondent has refused to register the document. Learned counsel for the petitioner placed reliance on the following judgments in support of his submissions:

(i) High Court of Telangana at Hyderabad - Division Bench - W.P.Nos.28643, 28776 and 28799 of 2021, dated 13.12.2021 (Bomma Reddy Rama Koti Reddy Vs. State of Telangana, represented by Prl. Secretary, Home, Secretariat, Hyderabad and eight others).

(ii) 2009 (3) LW 890 (Madurai Bench) (R.G.Rathinam Vs. The Sub-Registrar, Office of the Sub-Registrar, Velipattinam, Ramanathapuram TK & District and another).

7. Hence, relying on the above decisions, the learned counsel for the petitioner submitted that the Police Official based on any compliant, cannot seize the immovable property under Section 102 of the Code of Criminal Procedure



Order dated 07.11.2023 in
W.P.No.30041 of 2023

and also unless the Sub-Registrar satisfies with the document purchased under Section 22-A of the Registration Act, he cannot refuse to register that document, and therefore, the fourth respondent may be directed to register the document.

8. On the above issues, this Court also heard the submissions of the learned Special Government Pleader appearing for official respondents 1 to 3.

9. The learned Additional Public Prosecutor appearing for the fifth respondent submitted that the vendor of the petitioner, namely Silambarasan, was running JSVIN Smart Ventures, being the chit fund company through Vinoth Kumar who gave complaint before the fifth respondent-Police. The vendor of the petitioner was running the said small company (chit fund company) who insisted one Vinoth Kumar to deposit that amount and also he mortgaged the house property of the sisters in his native place and also informed the other persons in and around the Village and after receiving the investment then he refused to repay the amount, and therefore, he cheated them and was absconding, and from that out of the cheated amount, he purchased the subject matter of the property. Therefore, when the said Vinoth Kumar came to know that the vendor of the petitioner purchased out of the cheated amount and also invested the same in the property and he also mortgaged the property from that amount, and even though he promised to repay the amount, he failed to repay the same and that he is taking steps to dispose of the said property. Based on



Order dated 07.11.2023 in
W.P.No.30041 of 2023

the complaint, the fifth respondent conducted preliminary enquiry and found prima-facie case is made out and therefore, she sent a letter to the fourth respondent not to register the document. He further submitted that there are materials to show that there is bank transaction and also the vendor of the petitioner was running the said chit fund company and he also invited investment from the public and out of that amount, he purchased the property.

10. Heard both sides and perused the materials available on record.

11. The investigation is in the preliminary stage and as to whether the vendor of the petitioner was running the said Company and he invited investment from public and failed to repay the amount and cheated the investors or not, have to be decided only after the outcome of the investigation, and therefore, if the Sub-Registrar at this stage, is allowed to register the document in question, the petitioner would claim that he is the bona-fide purchaser and he would claim the title and the investors should not get the benefit from the transaction. Further, as to whether the subject matter of the property purchased out of the cheated amount or not, has to be decided only after the outcome of the investigation and criminal proceedings and therefore, under these circumstances, if the fourth respondent is allowed to register the document in question, the claim of the investors would be defeated. The petitioner would claim title and as a bona-fide purchaser, it would cause



Order dated 07.11.2023 in
W.P.No.30041 of 2023

prejudice to the investors, and therefore, this Court finds that the decisions relied on by the learned counsel for the petitioner, are not applicable to the facts of the present case on hand, since in the case on hand, the allegations are serious in nature, and therefore, the investigation is in the preliminary stage, and hence, in the above facts and circumstances, this Court finds that the petitioner is not entitled to the relief sought for in the present Writ Petition, and hence, the Writ Petition is dismissed. There shall be no order as to costs.

07.11.2023

CS

To

1. Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.
2. Deputy Inspector General of Registration,
Integrated Building of Registration Department,
Veppamara Street, Velppadi,
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3. District Registrar,
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Department of Ex-Servicemen's Welfare,
Vellore Main Road
Thiruvannamalai District-606 604.

Page No.12/14



Order dated 07.11.2023 in
W.P.No.30041 of 2023

4. Sub-Registrar - Joint 2,
Anna Salai, Thiruvannamalai-606 601.
5. Inspector of Police, DCB-II, Thiruvannamalai.
6. Inspector of Police, DCB-I, Thiruvannamalai.
7. The Public Prosecutor, High Court, Madras.

P. VELMURUGAN, J



WEB COPY



Order dated 07.11.2023 in
W.P.No.30041 of 2023

CS

W.P.No.30041 of 2023

07.11.2023

Page No.14/14