



W.P.No.29832 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.29832 of 2023

and

W.M.P.No.29438 of 2023

1.K.Senthil Kumar
2.B.UdayaKumar
3.B.Harikrishnan
4.Ganesa Moorthy
5.Lakshmi

... Petitioners

versus

The Sub Registrar,
O/o.Sub Registrar Yercaud,
Hospital road,
Taluk Office Campus,
Yercaud, Salem District – 636 601.

.....Respondent

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the respondent vide refusal check slip in Refusal number : RFL/Yercaud/41/21 dated 04.08.2023 and quash the same and consequently direct the respondent to register the documents presented by the petitioners vide Temporary No.TP/157241755/2023 dated 04.08.2023.



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For Petitioners : Mr.R.K.Ramaiah
For Respondent : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

Mr.Yogesh Kannadasan, learned Special Government Pleader takes notice for the respondent. By consent of both the parties, the writ petition is taken up for final disposal at admission stage itself.

2. This writ petition has been filed to quash the impugned proceedings vide refusal check slip in Refusal number :RFL/Yercaud/ 41/21 dated 04.08.2023 passed by the respondent and consequently direct the respondent to register the documents presented by the petitioners vide Temporary No.TP/157241755/2023 dated 04.08.2023.

3. According to the petitioners, they are the absolute owners of the petition mentioned properties vide registered sale deed in Doc.No.1483 of 2022 dated 20.10.2022, ever since they are in peaceful possession and enjoyment of the same. Due to financial necessity, they decided to sell a portion of the subject properties in and out of 5 acre and 36 cents purchased



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by them. Hence, they prepared a draft sale deed and also obtained on-line token for registration. When the petitioners presented the document for registration, the respondent refused to register the same on the ground that a partition suit in O.S.No.216 of 2023 is pending before the learned Additional District Judge No.1, Salem with respect to S.Nos.48/1A, 48/1B, 48/1C and 48/1D of Kakkampadi Village, Yercaud Taluk, Salem District. Hence, the petitioners are before this Court.

4. The learned counsel for the petitioners submitted that one Rani and others filed the suit in O.S.No.216 of 2023 for partition and separate possession against defendants 1 to 27, who are alleged to be legal heirs of the deceased Arokiyasamy. Petitioners 1 to 4 herein were added as party to the suit as defendants 28 to 31, since they are the purchaser of the suit property and also alleged that they are the legal heirs of one Annamary and Lilli Filomina, who are the daughters of the deceased Arokiyasamy. The plaintiffs have filed the suit without furnishing any documentary evidence to prove their claim. He further submitted that the plaintiff did not seek declaration or set aside the sale deed in Doc.No.1483 of 2022 dated



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20.10.2022 and also not filed any petition seeking injunction. Further, there is no restrain order obtained from the Civil Court, therefore, the impugned refusal order passed by the respondent is *ex-facie* illegal and arbitrary and the same is liable to be set aside. He further submitted that unless the competent Civil Court restrained the parties from dealing with subject properties, the Registration Authority must entertain the documents submitted for registration.

5. In support of his contention, the learned counsel for the petitioners relied upon the judgment of this Court in the case of ***Vadamugam Vellode Nalukarai Nattu Goundergal Sangam Vs. Inspector General of Registration*** reported in ***2021 (1) CTC 535***, wherein it is held that unless and otherwise a Competent Civil Court passes any interim order restraining the alienation of the property, the Registration Authority has to entertain the documents and register the same if it is otherwise in order.

6. The learned Special Government Pleader for the respondent submitted that as the civil suit is pending, the respondent rejected the



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document submitted for registration and therefore, the prayer in the petition cannot be entertained.

7. It is seen that a partition suit in O.S.No.216 of 2023 is pending before the Civil Court and the subject properties are also involved in it and hence, the Registrar has refused to register the document. This Court is of the view that the case law relied on by the petitioner also does not come to the aid of the petitioners as matters will have to be dealt with on a case to case basis on the facts and circumstances and merits of respective cases.

8. In view of the above, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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Note : The Registry is directed to issue Order copy on payment of separate Court fee by the petitioners.



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WEB COPY

To

The Sub Registrar,
O/o.Sub Registrar Yercaud,
Hospital road,
Taluk Office Campus,
Yercaud,
Salem District – 636 601.



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