



WEB COPY



W.P. No. 19532 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2023

CORAM

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

W.P. No. 19532 of 2017

and

W.M.P. No. 21098 of 2017

Raja @ P.Ashok Kumar

... Petitioner

-VS-

1. The Inspector General of Registration
100, Santhom High Road
Chennai – 600 028.

2. The District Registrar
(Administration)
Namakkal
Namakkal District.

3. The Sub Registrar
Rasipuram SRO
Rasipuram
Namakkal District.

4. Anusuya

5. K.Jayanthilal

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the first respondent to issue a Circular under Section 69 of the Registration Act, 1908 to prevent the respondents 4 and 5 from registering any document pending litigation in respect of the properties comprised in S.No. 156/3A (2.00 Acres), S.No.156/3B (10



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cents) S.No.164/5 (30 cents), S.No.165/1B (11 cents) and S.No.165/1B1 (12 cents) of Muthukalipatti Village, Rasipuram Taluk, Namakkal District by considering the petitioner's protest petition dated 09.05.2015.

For Petitioner : Mr. N.Manokaran

For Respondents : Mr. D.Ravichander (RR 1 to 3 & 8)
Special Government Pleader

Mr. C.Jagadish (R5)

R4 – Not ready in notice

ORDER

The relief sought for in the present writ petition is to direct the 1st respondent to issue a Circular under Section 69 of the Registration Act, 1908 to prevent the respondents 4 and 5 from registering any document pending litigation in respect of the properties comprised in S.No. 156/3A (2.00 Acres), S.No.156/3B (10 cents) S.No.164/5 (30 cents), S.No.165/1B (11 cents) and S.No.165/1B1 (12 cents) of Muthukalipatti Village, Rasipuram Taluk, Namakkal District by considering the petitioner's protest petition dated 09.05.2015.



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2. The grievances of the writ petitioner is that the respondents 4 and 5 are attempting to register the document during the pendency of the Civil Suit. In the event of any such registration, it would cause prejudice to the interest of the petitioner. The petitioner claims right over the subject property described in the present writ petition and the learned counsel for the petitioner reiterated that the Registering Authority cannot proceed with registration during the pendency of the Civil Suit.

3. The learned counsel for the respondents 4 and 5 brought to the notice of this Court that the Civil Suit instituted between the parties were dismissed for default. Therefore, there is no impediment for registering any document. The learned counsel for the petitioner objected the said contention by stating that the suits were dismissed for default and applications are to be filed to restore the suit.

4. May that as it be. Even pendency of the suit cannot be a bar for registering a document, unless there is an interim order of prohibition against any such registration is obtained from the competent Civil Court of law. Mere pendency of the Civil Suit between the private parties cannot be a ground to



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deny registration by the Registering Authority. If at all any such registration is falling under Section 22-A of the Registration Act, that alone is to be refused by the authorities and in respect of private disputes, there is no prohibition proceed with the registration. It is relevant to rely on the judgment in the case of ***Vadamugam Vellode Nalukarai Nattu Goundergal Sangam -vs- The Inspector General of Registration*** in [2021 (1) CTC 535], which reads as under:-

“ 10. The 5th respondent has approached the Civil Court and he has filed O.S.No.48 of 2019, seeking for the relief of partition and separate possession of 1/27th share in the suit properties. It is also seen that the 5th respondent has filed yet another suit in O.S.No.58 of 2017 in which she has claimed for the relief of permanent injunction restraining the defendants not to alienate the suit properties. In both the suits, there is no order passed by the competent Civil Court injuncting from dealing with the suit properties. What the 5th respondent was not able to achieve before the Civil Court is now sought to be achieved through the 3rd respondent by virtue of a letter given before this Court dated 21.02.2020. The 3rd respondent is a statutory



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authority, who has to strictly perform his function in accordance with law. This Court exercising its jurisdiction under Article 226 of Constitution of India can never prevent a statutory authority from performing his function. Therefore unless and otherwise a competent civil court passes any interim order restraining the alienation of the property, the 3rd respondent has to entertain the documents and register the same, if it is otherwise in order. Ultimately, even if the suit is decreed, the transaction will be subject to the rule of lis pendens. There is no law in force which says that no transaction can take place during the pendency of the suit. That exactly why Section 52 of the Transfer of Property Act, provides a solution for transactions that take place during the pendency of the suit.”

5. In the present case, admittedly, there is no such interim order, prohibiting the respondents 4 and 5 from registering a documents. In a pending suit, the petitioner is at liberty to secure appropriate remedy to redress his grievances.



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6. With these observations, the writ petition stands disposed.

Consequently, the connected Miscellaneous Petition is closed. No costs.

04.07.2023

kak/skr

Index : Yes

Speaking order

Neutral Citation : Yes



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To

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S.M.SUBRAMANIAM, J.

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