



W.P.(MD).No.1829 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN

**W.P.(MD).No.1829 of 2023
W.M.P(MD).No.1620 of 2023**

T.Ramesh Pandian

... Petitioner

Vs.

**1.The District Registrar,
Tenkasi District,
Tenkasi.**

**2.The Sub-Registrar,
Melaneelithanallur Sub-Registrar Office,
Sankarankoil Taluk,
Tenkasi District.**

**3.M/s.Official Liquidator,
High Court of Madras,
as the Liquidator of M/s.Moolchand Exports Limited,
Corporate Bhavan,
2nd Floor, First Line Beach Road,
No.29, Rajaji Salai,
Chennai-600 001.**

...Respondents



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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned Refusal of sale deed Document No.RFL/Melaneelithanallur/1/2023, dated 03.01.2023 passed by the second respondent and quash the same as illegal and consequently direct the second respondent herein to register the sale deed in Temporary Document No.TP/140654929/2023.

For Petitioner : Mr.N.Marimuthu

For Respondents : Mr.M.Prakash
Additional Government Pleader
for R1 and R2
Mr.G.Cenil
for R3

ORDER

This Writ Petition has been filed in the nature of Certiorarified Mandamus seeking interference with refusal to register a sale deed Document No.RFL/Melaneelithanallur/1/2023, dated 03.01.2023 passed by the second respondent and to consequently direct the second respondent herein to register the sale deed in Temporary Document No.TP/140654929/2023.



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2. In the affidavit filed in support of the writ petition, it had been stated that the second respondent had passed the impugned refusal check slip, refusing to register the sale deed presented by the petitioner herein. It had been stated that the petitioner had earlier purchased the lands in Survey Nos.287/1, 288/1, 288/2, 293/1, 293/2 and 319/4, totally measuring 13 acres 44 cents at K.Maruthapuram Village, Sankarankoil Taluk, Tenkasi District by way of various registered sale deeds dated 16.06.2014. It had been stated that the petitioner has been in possession of the said properties. The petitioner had further divided the said lands into 412 house site plots and had sold 16 plots between 2014 and 2018. Thereafter, the petitioner also obtained DTCP plan approval from the Authorities and had taken steps to sell the remaining properties in Survey Nos.287/1, 288/1, 288/2, 293/1 and 293/2 situated at Sri Lakshmi Balaji Nagar, Plot No.371, K.Maruthapuram Village, Sankarankoil Taluk, Tenkasi District, to one Madasamy, son of Muthuthevar. The sale deed was presented for registration before the second respondent on 03.01.2023. The second respondent had refused to register the same claiming that the properties are under the liquidation process and as per the direction of the Madras High Court in Company Application



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No.24 of 2020 in Company Petition No.254 of 1997 dated 31.01.2020, the document could not be registered. Questioning this particular refusal reason given to register the document, the present writ petition has been filed.

3. The third respondent is the Official Liquidator of the Madras High Court who had been appointed as Liquidator of M/s.Moolchand Exports Limited. A report had been filed by the Official Liquidator, stating various facts relating to the liquidation proceedings and it had been finally stated as follows:-

10. That it is pertinent to submit that on perusal of the petition filed by the petitioner herein that the petitioner did not obtain leave of the Hon'ble High Court, Madras, under Section 446(1) of the Companies Act, 1956 and in terms of Section 446(1) of the Companies Act, 1956, the petitioner except by leave of this Hon'ble Court cannot initiate legal proceeding against a company which has been ordered to be wound up or wherein a provisional Liquidator/Liquidator has been appointed by the Court. The said provision under Section 446(1) of the Companies Act, 1956, is reproduced below for ready reference:

“When a winding up order has been made or



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the Official Liquidator has been appointed as provisional liquidator, no suit or other legal proceeding shall be commenced, or if pending at the date of winding up order, shall be proceeded with, against the company, except by leave of the Court and subject to such terms as the Court may impose”.

4. The second respondent had also taken the same stand that the petitioner has to obtain leave from the Madras High Court in aforementioned Company Application and it had been stated that without such leave of the Madras High Court, the properties cannot be sold. The properties are subject matter of the order of the Madras High Court.

5. The learned counsel appearing for the petitioner however disputed this particular fact and stated that the order of the Madras High Court does not indicate that such leave should be obtained. The learned counsel stated that in the order of the Madras High Court, the liquidation proceedings had been shown as having ended in the year 1997 itself and it was also contended that there had been several transactions over the properties and they had all been registered and this particular document alone has been refused to be registered by the second respondent.



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6. A perusal of the entire report shows that there had been properties of the Company under the liquidation had been dealt with by the Directors individually. Thereafter, the Official Liquidator had taken necessary steps to protect the property. In fact, it would be appropriate to extract the following paragraph Nos.4 to 6 of the counter also:

“4. That one of the Ex-Directors of the Company in liquidation has filed statement of affairs with the Official Liquidator on 26.09.2006. The Ex-Director of the Company in liquidation has filed applications in C.A.Nos.23 to 27 of 2020 for preservation and protecting of the assets of the Company in liquidation which were in the form of agricultural land where there has been encroachments and swindling of the assets. The Hon'ble High Court, Madras by an order dated 31.01.2020 made in C.A.No.24 of 2020 directed the Official Liquidator to issue letters to the respective jurisdictional Sub-Registrars, within whose jurisdiction the properties are situated and to inform them that the company in liquidation has been wound up and that no further conveyance/transfers in respect of the said property shall take place also directed the ex-director of the company in liquidation to co-operate in identifying the properties belonging to the company in liquidation.

5. That in accordance to the aforesaid Hon'ble Court order the Official Liquidator had issued letter on 18.02.2020



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to all the Sub-Registrar's concerned jurisdiction and a copy of the letter marked to "Inspector General of Registrations", Chennai that no register/transfers has to be entertained on the landed properties in the survey numbers belonging to the company in liquidation along with detailed annexures in terms of the Section 456 of the Companies Act, 1956.

6. That it is submitted that as per the information given by the Ex-Directors of the company in liquidation the properties pertaining to the company in liquidation pending for sale are vacant lands situated at various villages comprising in 3 Districts i.e., Tirunelveli, Sivaganga and Pudukottai."

7. The aforementioned portions clearly reveal that it is only based on the order of the High Court, that the letter had been issued by the Official Liquidator to the Sub-Registrar that transactions should not be entertained on the landed properties in the survey numbers belonging to the Company. The petitioner always has liberty to approach the Madras High Court and get necessary leave to deal with the properties. This Court cannot ignore such order. The Official Liquidator is acting under directions of the Madras High Court and this Court cannot act contrary to the directions already issued.



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8. Accordingly, this Writ Petition is dismissed granting liberty to the petitioner to file necessary application before the Madras High Court in the aforementioned Company Application seeking leave to deal with the properties as stated in the present writ petition. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

05.06.2023

Index: Yes/No
Internet: Yes/No
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To

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Tenkasi.
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