



W.P.(MD)No.4506 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.4506 of 2023
and W.M.P.(MD)No.4249 of 2023

S.Paramaguru

... Petitioner

Vs.

1.The Sub Registrar,
Sivakasi,
Virudhunagar District.

2.The Tamil Nadu Housing Board,
represented by its Executive Engineer,
Madurai Division,
Madurai.

3.Shobana

... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings passed by the 1st respondent in Na.Ka.No. 86/2023 dated 20.02.2023, quash the same as illegal and consequently direct the 1st respondent not to register any document pertaining to the house property bearing number D-2.36, Town Survey No.807 part, Thiruthangal, Devarkulam Panchayat, Sivakasi, Virudhunagar District in the light of the circular issued by the Inspector General of Registration in 39708/C1/2018 dated 04.10.2018.



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For Petitioner : Mr.R.J.Karthick
For R1 : Mr.N.Satheeskumar
Additional Government Pleader
For R2 : Mr.R.Sivakumar
Standing Counsel

ORDER

Heard the learned counsel for the petitioner, learned additional Government Pleader for the first respondent and the learned standing counsel for the second respondent. Issuance of notice to the third respondent is dispensed with.

2. The petitioner claims that he entered into a sale agreement with the third respondent to purchase the petition mentioned house. The house was constructed by the Tamil Nadu Housing Board and allotted to the third respondent. The second respondent had already executed a pucca sale deed in favour of the third respondent and presented the same for registration. Apprehending that this may affect his rights as an agreement holder, the petitioner filed objections before the first respondent. The petitioner's objection was rejected by the registering authority vide communication dated 20.02.2023. Challenging the same, the present writ petition came to be filed.



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3.The learned counsel for the petitioner pointed out that the reason set out in the impugned communication is not proper. It is true that compulsory registration of sale agreement came into force with effect from 01.12.2012. The present sale agreement is of the year 1998. During the relevant time, there was no compulsion to register sale agreements. The first respondent erred in holding that the petitioner has no right over the property in question merely because the agreement was not registered.

4. I am not able to fault the approach adopted by the first respondent. The petitioner had already filed O.S.No.19 of 2022 on the file of the Sub Court, Sivakasi for specific performance of the agreement. The petitioner can very well obtain his relief in the pending suit. The petitioner is permitted to file an interim application for restraining the Housing Board from executing any sale deed in favour of the third respondent. If any interim application for such a relief or any other relief is filed, the learned Subordinate Judge, Sivakasi, shall dispose it of on merits and in accordance with law as expeditiously as possible. In my view the apprehension of the petitioner appears to be misplaced. Even if



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the pucca sale deed executed by the second respondent in favour of the third respondent is registered, that will not affect the rights of the petitioner. The petitioner has to eventually succeed in the suit for specific performance. Holding that the rights of the parties will abide by the outcome of the suit in O.S.No.19 of 2022, on the file of the Subordinate Court, Sivakasi, this writ petition is dismissed. Consequently, connected miscellaneous petition is also dismissed. No costs.

02.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

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G.R.SWAMINATHAN,J.

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