



W.P.(MD)No.8415 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.8415 of 2021

and

W.M.P.(MD).No.6345 of 2021

A.Savarimuthu

... Petitioner

Vs.

1.The District Registrar (Administration),
District Registration Office,
Trichy District.

2.The Sub-Registrar / Registration Officer,
Uraiyur Sub-Registration Office,
Trichy District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the second respondent in Ni.AA.No.05/2020 dated 18.08.2020 and the consequential impugned order passed by the first respondent in Na.Ka.No.8807/AA1/2020 dated 27.11.2020, quash the same as illegal and consequently direct the second respondent forthwith to register the Pending Doc.No.05/2020 dated 27.01.2020 in respect of the property in Survey No.36/4 of Uyenkondan Thirumalai Village, Sreerangam Taluk, Uraiyur Sub Registrar Office, Trichy District to the extent of 0.50 cents.



WEB COPY



W.P.(MD)No.8415 of 2021

For Petitioner : Mr.C.Susi Kumar

For Respondents : Ms.S.Jeyapriya
Government Advocate

ORDER

This Writ Petition has been filed challenging the impugned order passed by the second respondent in Ni.AA.No.05/2020 dated 18.08.2020 and the order passed by the first respondent in Na.Ka.No.8807/AA1/2020 dated 27.11.2020 and for a consequential direction to the second respondent to register the pending Document No.5/2020, dated 27.01.2020 with respect to the subject property.

2. Heard the learned counsel appearing on behalf of the petitioner and the learned Government Advocate appearing on behalf of the respondents.

3. It is not in dispute that the petitioner was attempting to get a sub lease from one LoorthusamyPillai who was the original lessee under one Tmt.Kangaiammal. When this document was presented for registration, it was found that the said LoorthusamyPillai himself was given an unregistered lease



W.P.(MD)No.8415 of 2021

deed for a period of two years. This period had come to end and it was not extended. In view of the same, the respondents found that the said LoorthusamyPillai cannot in turn execute a lease deed in favour of the petitioner, since there was no subsisting right for LoorthusamyPillai as on the date of execution of the lease deed. In order to find out a solution, the respondents had also sent a notice to the original owner of the property and there was no response from the original owner. In view of the same, the lease deed that was executed in favour of the petitioner by LoorthusamyPillai was not entertained. Hence, the same has been put to challenge in this Writ Petition.

4. It was contended by the learned counsel for the petitioner that the second respondent is bound by Rule 55 of the Registration Rules which speaks about the grounds on which a document can be refused to be registered. The learned counsel submitted that the ground that has been projected by the second respondent does not fall under the rule and therefore, the decision taken by the respondents is liable to be interfered by this Court.



W.P.(MD)No.8415 of 2021

5. In the considered view of this Court, the second respondent while entertaining a document and registering the same is expected to undertake some due diligence in order to find out the right of the person who is dealing with the property. While doing so, the second respondent is not expected to go into the right and title and it is only a *prima facie* right which has to be ascertained by the second respondent. Even without undertaking this exercise, a Sub-Registrar cannot mechanically register the documents.

6. In the instant case, the petitioner was attempted to be inducted as a sub-lessee by the original lessee LoorthusamyPillai. The second respondent found that the original lessee had a lease only for a period of two years and that too, it was an unregistered lease deed. Thereafter, there was no material available to show that the said LoorthusamyPillai had a subsisting lease in his favour. While this was pointed out to the learned counsel for the petitioner, the learned counsel submitted that the Zonal Tahsildar, Tiruchirappalli has identified that the LoorthusamyPillai is a lessee for the lands and a declaration to that effect has also been made under Section 3(9) of the Record of Tenancy Rights Act, 1969.



W.P.(MD)No.8415 of 2021

7. There is no dispute with regard to the fact that the said LoorthusamyPillai is the lessee for the subject property. The only other question is as to whether the said LoorthusamyPillai can once again execute a lease deed in favour of the petitioner and induct him as a sub-lessee to the property. This Court is not dealing with the right of LoorthusamyPillai to occupy the property and to do agricultural activities. This Court is concerned about the right of LoorthusamyPillai to execute a lease deed in favour of the petitioner. In other words, the right of the petitioner to get a lease deed from LoorthusamyPillai is in question. For this purpose, the respondents did not find any materials. That is the reason why a notice was issued to the original owner of the property Kangaiaammal and there was no response from the original owner.

8. If this Court is to direct the second respondent to entertain the lease deed and to register the same, the said Kangaiaammal will challenge the same on the ground that the property belongs to her and that even without putting her on notice, the property has been subleased to the petitioner. If such a plea is made, it will be very difficult to sustain the registration of lease deed in favour of the petitioner by the said LoorthusamyPillai.



W.P.(MD)No.8415 of 2021

9. To understand this issue, this Court will take a gross/extreme example.

An Advocate who practices before the Madurai Bench of Madras High Court is recognized as an Advocate and necessary identity is also given to him in this regard. If this Advocate is allotted a chamber in the Association and the Advocate attempts to give his right to some other person, the question will be as to whether the Advocate to whom the chamber was allotted can in turn re-allot to some one else. When that question crops up, the allottee of the chamber viz., the committee must be taken into confidence. Without doing that, if the allotment is allowed to be made by the Advocate to some other person, just because the Advocate has been identified as an allottee to the chamber, it will only cause serious confusion and it will undermine the authority of the committee allotting the chamber.

10. Therefore, the above extreme example is given to understand as to why the mere declaration of the name of LoorthusamyPillai as a cultivating tenant, will not entitle the said LoorthusamyPillai to once again lease the property to some body else without a valid document giving such authority or without putting the owner of the property on notice.



W.P.(MD)No.8415 of 2021

11. In the light of the above discussion, this Court does not find any apparent illegality or perversity in the order passed by both the respondents and it does not require the interference of this Court. If at all the petitioner wants to become a lessee of the property, it will be left open to the petitioner to bring the original owner of the property and seek for the execution of the document and registration of the same.

12. Accordingly, this Writ Petition stands dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

15.12.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To

- 1.The District Registrar (Administration),
District Registration Office,
Trichy District.
- 2.The Sub-Registrar / Registration Officer,
Uraiyur Sub-Registration Office,
Trichy District.



WEB COPY



W.P.(MD)No.8415 of 2021

N.ANAND VENKATESH, J.

Nsr

W.P.(MD)No.8415 of 2021

15.12.2023