



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.9553 of 2015

S.Saravanan

... Petitioner

Vs.

1. The District Registrar,
Karaikudi, Sivagangai District.

2. The Joint Sub Registrar-II,
Karaikudi, Sivagangai District.

3. Singarathammal

(R-3 is impleaded vide order dated 11.07.2023
in W.M.P.(MD)No.3968 of 2022)

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, calling for the records pertaining the impugned order passed by the 1st respondent in Na.Ka.No.924/AA1/ 2015 dated 10.04.2015 confirming the order of 2nd respondent in Rejection order No.10/2014 dated 15.12.2014 and quash the same and further direct the 2nd respondent to register document in Document No.P.17/2014 on the file of Sub-Registrar, Karaikudi and return the document to the petitioner.

For Petitioner : Mr.V.R.Shanmuganathan,
for Mr.A.L.Kannan.

For R-1 & R-2 : Mrs.K.Christy Theboral,
Additional Government Pleader.

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ORDER

Heard the learned counsel on either side.

2. The transaction pertains to petition-mentioned survey numbers. One Aru.Singarathammal executed sale deed dated 10.04.2014 in favour of the writ petitioner in respect of the petition-mentioned survey numbers. It is not in dispute that the petitioner's vendor had entered into a registered agreement with the co-owners way back in the year 1987 undertaking not to deal with the petition-mentioned survey numbers. The said period has long since expired. Treating it as an encumbrance, the registering authority has declined to register the sale deed. Aggrieved by the stand of the registering authority, the petitioner filed an appeal before the first respondent. The first respondent also vide proceedings dated 10.04.2015 declined to interfere in the matter. Challenging the same, the present writ petition came to be filed.



3. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4. The registering authority has filed counter affidavit and the learned Additional Government Pleader took me through its contents.

5. Her submission is that the impugned order is in consonance with the instruction issued by the Inspector General of Registration and it does not warrant any interference. She pressed for dismissal of the writ petition.

6. I carefully considered the rival contentions and went through the materials on record.

7. The issue raised in this writ petition is no longer *res integra*. The Hon'ble Division Bench of the Madras High Court in the decision reported in **2020 6 CTC 697 (N.Ramayee V. The Sub Registrar, Registration Department, Salem)** had



held that merely because the petitioner's vendor had entered into a registered sale agreement with others in respect of the property covered by the sale deed, the registering authority would not have the jurisdiction to refuse registration. In this case, no sale agreement was registered as such. There is only an agreement among the co-owners to not to deal with the property. The said period has expired. Therefore, the agreement deed No.233/ 1987 cannot operate as an encumbrance. The orders impugned in this writ petition are set aside. The second respondent is directed to complete all the usual formalities and release the document. This writ petition stands allowed. No costs.

11.07.2023

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

1. The District Registrar,
Karaikudi, Sivagangai District.
2. The Joint Sub Registrar-II,
Karaikudi, Sivagangai District.



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G.R.SWAMINATHAN,J.

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11.07.2023