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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

WP(MD)No.2049/2016 &
WMP(MD)No.1771/2016

Adeline Farms & Poultry
Rep. by its Director Mr.Arulprakasam,
S/o. Santhanam, Door No.55,
Sasthri Street, Sivagangai Town,
Sivagangai District ... Petitioner

Vs

1.Joint No.2 Sub Registrar,
Joint Sub Registrar Office,
Sivagangai District.

2.Venkatesan

3.Muniyasamy

4.Muruganantham ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from registering any encumbrance over the properties of the petitioner by considering and passing orders in the protest petition dated 08.12.2015.

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For Petitioner : Mr.K.R.Laxman

For Respondents : Mr.M.Prakash,
Additional Government Pleader
for R1

No appearance for R2 to R4

O R D E R

The petitioner is a private limited company. By this Writ Petition, the petitioner seeks a direction to restrain the respondents from registering any encumbrance over the properties of the petitioner.

2. Learned counsel for the petitioner submits that no conveyance has been registered in respect of the properties of the Company till date. He submits that the Writ Petition was filed in view of the documents submitted by the second and fourth respondents to register a conveyance in favour of the third respondent.

3. Mr.M.Prakash, learned Additional Government Pleader, appears for the first respondent. He submits that the first respondent would issue notice to

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the petitioner (the Company) and its Directors and conduct an enquiry before taking a decision.

4. The Company is a juristic entity, which is capable of owning property in its own name. The properties of the Company are distinct from the properties of its Shareholders or Directors. Therefore, the Board of Directors of the Company should duly authorise the sale of the Company's property. In this case, there appears to be a tussle between the Directors of the Company. Therefore, it becomes necessary for the first respondent to examine whether the person presenting the documents on behalf of the Company has been duly authorised by the Company to present such document. For this purpose, it is necessary that information relating to the Shareholders and Directors of the Company should be provided to the first respondent. The first respondent should also be provided copies of relevant Board and Shareholders resolutions relating to the sale of the relevant property.

5. Since no decision is being made with regard to entitlement of the Company to present the document for registration and the first respondent is

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only being directed to conduct an enquiry, it is not necessary to put the second to fourth respondents on notice at this juncture.

6. For reasons set out above, WP(MD)No.2049/2016 is disposed of by directing the first respondent to put the Company, its Directors including the second and fourth respondents and the third respondent on notice, call for the documents indicated above, conduct an enquiry and thereafter take a decision with regard to the registration of the relevant document. This process shall be completed within a period of two months from the date of receipt of a copy of this order. No order as to costs. Consequently, the connected Miscellaneous Petition is closed.

06.03.2023

NCC : Yes / No
Index : Yes / No
Speaking / Non-speaking order
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SENTHILKUMAR RAMAMOORTHY, J.

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