



W.P.No.2453 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.2453 of 2023

Pounambal

... Petitioner

versus

1.The Joint Sub-Registrar,
Office of Sub Registrar,
Dhadagapatti, Salem.

2.D.Ramesh

.....Respondents

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records with respect of the impugned proceedings of the first respondent in No.649/2022, dated 25.11.2022 and quash the same, consequently, direct the respondent to register the cancellation of sale deed document dated 22.09.2022 which has been presented for registration before the respondent on 21.10.2022 within a stipulated period as fixed by this Court.



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For Petitioner : Mr.A.Rahul

For Respondents : Mr.U.Baranidharan
Additional Government Pleader for R1

Mr.C.Prabakaran for R2

ORDER

This writ petition has been filed to quash the impugned proceedings in No.649/2022, dated 25.11.2022 passed by the first respondent and consequently, direct the first respondent to register the cancellation of sale deed, dated 22.09.2022, which has been presented for registration before the first respondent on 21.10.2022 within a stipulated period as fixed by this Court.

2. The case of the petitioner is that he is the absolute owner of the subject property, thereby, she decided to sell the property to one Dhakshanamoorthy. While so, the petitioner executed a sale deed dated 22.09.2022 and the same was presented for registration before the first

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respondent on 21.10.2022. However, the second respondent herein made an objection to register the said document stating that his father Dhanasekar has filed a suit in O.S.No.495 of 1999 on the file of the Principal Sub Judge, Salem for specific performance and permanent injunction against the petitioner in respect of the subject property and the same was decreed in favour of the second respondent's father on 08.07.2004. Based on the said decree, the father of the second respondent was alleged to have paid the balance amount of Rs.65,000/- before the trial Court, but without considering the same, the petitioner was taking steps to alienate the said property to third party. While so, based on the objections raised by the second respondent, the first respondent refused to register the document. Hence, the petitioner made an application on 10.11.2022 to conduct an enquiry on the said objections made by the second respondent. While so, the first respondent issued notice to the second respondent for enquiry, but he



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failed to appear for enquiry, and the first respondent, vide proceedings dated 25.11.2022, directed the petitioner herein to get appropriate orders from the Court to enable them to register the document in question.

3. The learned counsel for the petitioner submitted that admittedly one K.Madhu has filed the suit in O.S.No.495 of 1999 on the file of the Principal Sub Court, Salem for specific performance and permanent injunction and obtained ex-parte decree. The trial Court directed the said K.Madhu to deposit the balance amount of Rs.65,000/- within a period of one month from the date of decree dated 08.07.2004. However, the plaintiff in the suit has not complied with conditions imposed on him in the said ex-parte decree and there is no record to show as to whether he has deposited the amount before the trial Court or not. Hence, the said decree is inexecutable and no one can claim right against the subject property based on the decree. The



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learned counsel further submitted since the plaintiff in O.S.No.495 of 1999 has not deposited the balance amount within the stipulated time, the first respondent has no right to refuse to register the document. Moreover, as per the objections raised by the second respondent, the father of the second respondent Dhanasekaran is not a party to the said suit and he has no right over the subject property. Hence, the objections raised by the second respondent could not have been considered and the document presented by the petitioner will have to be registered.

4. The learned Additional Government Pleader appearing for the first respondent submitted that though the petitioner has sought relief of registration of cancellation of the sale deed, whereas the said document has not been presented and the document referred by the petitioner shows only a sale deed.



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5. Heard both sides and perused the materials available on record.

6. In the absence of production of copy of the document which was presented before the first respondent, the petitioner is not entitled to the relief sought for in this writ petition. Therefore, the prayer sought for in the petitioner is not in order, and the writ petition is liable to be dismissed. However, the petitioner has got an efficacious alternative appellate remedy under Section 77-B of the Registration Act, 1908. Hence, the petitioner is at liberty to work out his remedy in the manner known to law.

7. With the above liberty, the writ petition is dismissed. There shall be no order as to costs.

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Index: Yes/No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No

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To

The Joint Sub-Registrar,
Office of Sub Registrar,
Dhadagapatti, Salem.

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P.VELMURUGAN, J.

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