



WEB COPY



W.P.No.6168 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.6168 of 2020

Mr.K.Pazhaniappan

...Petitioner

-Vs-

1.The Sub-Registrar,
Omalur,
Salem District.

2.Mr.C.Prakasam

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Mandamus, directing the first respondent to consider the petitioner's representation dated 18.01.2019 and pass such further orders.

For Petitioner : Mr.B.Nedunchezhiyan

For R1 : Mr.B.Vijay
Additional Government Pleader

For R2 : No appearance



W.P.No.6168 of 2020

ORDER

WEB COPY

This writ petition is filed for issuance of a Writ of Mandamus, directing the first respondent to consider the petitioner's representation dated 18.01.2019.

2. It is the case of the petitioner that the property bearing Survey No. 1/6A1A, 21A1, 1/6A1B is an ancestral property and the property is totally an undivided property with every coparceners having right to the property by metes and bounds. The property is an undivided estate and it cannot be encumbered to third parties unless partition is effected between coparceners and they cannot sell the property by way of any sale consideration. Moreover title and undivided interest in the property cannot be registered or encumbered to any third parties. It is seen that the second respondent was trying to alienate the property by executing a sale agreement to the third parties. Therefore, the petitioner made representation to the first respondent on 18.01.2019 and the same was not considered by the first respondent. Aggrieved by the same, the petitioner has approached this Court by way of filing this present writ petition.



W.P.No.6168 of 2020

3. Learned counsel for the petitioner submitted that petitioner made a representation on 18.01.2019, stating that no document relating to above said property cannot be registered, subsequent to the title and undivided interest in the property being questioned. The suit is also pending before the trial Court in respect to the properties and a legal consequence arises, particularly in this above Survey No. 1/6A1A, 21A1, 1/6A1B and the same cannot be encumbering to any third parties due to the pending proceedings before the trial Court. Learned counsel further submits that properties cannot be sold when there is an undivided interest between coparceners, unless the sale can be effected by way of partition as metes and bounds between coparceners.

4. Learned Additional Government Pleader appearing for the first respondent submitted that the petitioner's representation dated 18.01.2019 would be considered on merits and in accordance with law by the Authority concerned.

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

J.SATHYA NARAYANA PRASAD, J.

6. Taking into consideration the factual aspects of the matter,



W.P.No.6168 of 2020

this Court without going into the merits of the case, directs the first respondent / The Sub-Registrar, Omalur, Salem District, to conduct a detailed enquiry and dispose of the petitioner's representation 18.01.2019 after giving due notice to both parties, affording an opportunity of personal hearing to the petitioner as well as rival claimants/interested parties if any, to take into consideration all the relevant documents submitted by the parties in regard to the subject matter property and pass appropriate orders on merits, in accordance with law thereby following the above principles of natural justice within a period of eight weeks from the date of receipt of a copy of this order.

In the result, the writ petition stands disposed of with the above observation and direction. No costs.

25.06.2024

cda
Index : Yes/No
Speaking/Non Speaking order

To
The Sub-Registrar,
Omalur,
Salem District.

W.P.No.6168 of 2020