



W.P.No.17838 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.17838 of 2019
and
W.M.P.No.17236 of 2019

R.P.Murugan

...Petitioner

-Vs-

1.The Inspector General of Registration,
Inspector General Office,
No.120, Santhome High Road,
Chennai – 600 026.

2.The District Registrar,
Dharmapuri.

3.The Sub Registrar,
Sub Registrar Office,
Harur.

4.Nadhiya
W/o.R.P.Murugan

5.Minor Naren Karthick
S/o.R.P.Murugan

6.Minor Lokeshwaran
S/o.R.P.Murugan

Minor respondents 5 & 6 represented
by mother and fourth respondent

...Respondents



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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 Certiorarified Mandamus calling for the records of the third respondent pertaining to the Check Slip dated 09.05.2019 and quash the same and consequently, direct the third respondent to register and release the sale deed dated 09.05.2019, in respect of the lands situate in Survey Nos.69/6A & 68/1, at Pethasamudhiram Village, Pappireddipatti Taluk, Dharmapuri District and pass such further orders.

For Petitioner	:	Mr.P.Valliappan, Senior Counsel for Mr.N.Loganathan
For R1 & R2	:	Mr.K.Yogesh Kannadasan Special Government Pleader
For R3	:	Mr.K.Suresh Government Advocate
For R4 to R6	:	No appearance

ORDER

This writ petition has been filed challenging the Check Slip dated 09.05.2019 issued by the third respondent and for a consequential direction to the third respondent to register and release the sale deed dated 09.05.2019, in respect of the lands situated in Survey Nos.69/6A & 68/1, at Pethasamudhiram Village, Pappireddipatti Taluk, Dharmapuri District.

2. The facts of the case in a nutshell:-



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2.1 The lands comprised in Survey Nos. 69/6A & 68/1, at Pethasamudhiram Village, Pappireddipatti Taluk, Dharmapuri District, were bequeathed to the petitioner by his grandmother by way of a registered Settlement Deed (Doc No. 1559/2004) dated 05-07-2004, Sub-Registrar Office, Harur. Thus, the petitioner became the absolute owner of the subject matter lands. The petitioner sold the said lands to one Mrs.Geetha by way of a Sale Deed dated 09-05-2019 in pursuance of the Sale Agreement entered into on 28-09-2018. The petitioner went to the office of the third respondent and presented the Sale Deed for registration after paying the required charges, but the third respondent refused to register the Sale Deed stating that a suit was pending.

2.2 Respondents 4 to 6, who are the petitioner's wife and minor children, had filed the vexatious suit in O.S.No. 267 of 2018, before the Subordinate Judge's Court at Harur, seeking relief of maintenance. The said suit has been filed only to harass the petitioner. During the pendency of the suit, respondents 4 to 6 filed an interlocutory application in I.A.Nos.727 & 728 of 2018 in the said suit seeking attachment of the subject matter property, in the event of the petitioner's failure to pay maintenance. However no order of attachment was passed. The petitioner has been paying a sum of



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Rs.10,000/- to the respondents regularly, even though there is no direction from the Court to that effect and there are other properties which could be attached towards payment of maintenance, in case any order is passed in favour of respondents 4 to 6. However, the fourth respondent, somehow knowing of the petitioner's plan to sell the subject matter lands had filed the interlocutory application just to harass him.

2.3 The third respondent refused to register the Sale Deed dated 09-05-2019, only due to the pendency of the suit, though there is no order prohibiting alienation of the said lands. This Hon'ble Court has time and again held that the registering authority cannot refuse to register validly executed documents. Hence, the third respondent ought to have registered the Sale Deed dated 09-05-2019 instead of issuing a check slip. The action of respondents 1 to 3 is clearly unlawful and without jurisdiction. Respondents 1 to 3 are duty bound to register validly presented documents. Aggrieved by the same, the writ petition has been filed before this Court.

3. Learned senior counsel appearing for the petitioner submitted that as on date the suit in O.S.No. 267 of 2018 on the file of the Subordinate Judge's Court at Harur is not pending and the same was disposed of on



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02.02.2023.

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4. Learned Special Government Pleader appearing for respondents 1 and 2 drew the attention of this Court to the counter affidavit filed by the third respondent, wherein it is stated as follows:

“On receipt of the said Sale Deed, this respondent verified the records maintained in this office and found that there is a Suit in O.S.No.267 of 2018 in respect of the above mentioned properties and the same is pending on the file of Subordinate Court, Harur. Hence, this respondent returned the said Sale Deed without registering the same along with a Check Slip dated 09.05.2019 stating that the registration of the said Sale Deed is refused since because of the pendency of O.S.No.267 of 2018. At this stage, the petitioner has filed the present Writ Petition.”

5. Learned Special Government Pleader relied upon an order of this Court in the case of ***“Vadamugam Vellode Nalukarai Nattu Goundergal Sangam represented by its President K.Chinnasamy, S/o.Kulandhiyanna Gounder, No.15, V.Kuttapalaya, V.Vellodu (Post), Perumdurai (Taluk), Erode – 638 112 reported in 2021 (1) CTC 535,*** wherein this Court held as follows:

“The 5th respondent has approached the Civil



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*Court and he has filed O.S.No.48 of 2019, seeking for the relief of partition and separate possession of 1/27th share in the suit properties. It is also seen that the 5th respondent has filed yet another suit in O.S.No.58 of 2017 in which she has claimed for the relief of permanent injunction restraining the defendants not to alienate the suit properties. In both the suits, there is no order passed by the Competent Civil Court injunction from dealing with the suit properties. What the 5th respondent was not able to achieve before the Civil Court is now sought to be achieved through the 3rd respondent by virtue of a letter given before this Court dated 21.02.2020. The 3rd respondent is a statutory authority, who has to strictly perform his function in accordance with law. This Court exercising its jurisdiction under [Article 226](#) of Constitution of India can never prevent a statutory authority from performing his function. **Therefore unless and otherwise a competent civil Court passes any interim order restraining the alienation of the property, the 3rd respondent has to entertain the documents and register the same, if it is otherwise in order. Ultimately, even if the suit is decreed, the transaction will be subject to the rule of lis pendens. There is no law in force which says that no transaction can take place during the pendency of the suit. That is exactly why [Section 52](#) of the Transfer of Property Act, provides a solution for transactions that take place during the pendency of the suit.***

6. In view of the submission made by the learned counsel on



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either side and the ratio laid down by this Court, the Check Slip dated 09.05.2019 issued by the third respondent is hereby quashed and the third respondent is directed to register the sale deed submitted by the petitioner within a period of four weeks from the date of receipt of a copy of the order.

In the result, the writ petition stands allowed with the above observation and direction. No costs. Consequently, connected miscellaneous petition is closed.

13.06.2024

cda

Index : Yes/No

Speaking/Non Speaking order

NOTE: Issue order copy by 19.06.2024

J.SATHYA NARAYANA PRASAD, J.

cda

To

1.The Inspector General of Registration,
Inspector General Office,
No.120, Santhome High Road,
Chennai – 600 026.



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2.The District Registrar,
Dharmapuri.

3.The Sub Registrar,
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Harur.

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