



WA.No.3007/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE DR. JUSTICE A.D.MARIA CLETE

WA.No.3007/2024 & CMP.No.22561/2024

Kalaiventhan

... Appellant

Vs.

1.Joint Sub Registrar No.II
Tindivanam, Villupuram.

2.Jayakumar

... Respondents

Prayer : Writ Appeal filed under Clause 15 of Letters Patent against the order in WP.No.33046/2023 dated 27.06.2024.

For Appellant

: Mr.K.V.Sajeev Kumar for
Mr.A.B.Rajasekaran



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JUDGMENT

[Order of the Court was made by S.S.SUNDAR, J.,]

- (1) The above writ appeal is directed against the order of the learned Single Judge dated 27.06.2024 allowing the writ petition filed by the 2nd respondent herein in WP.No.33046/2023 filed for issuance of a writ of mandamus to direct the 1st respondent herein/Joint Sub Registrar to return the Sale Deed dated 03.04.2023 executed in favour of the writ petitioner/2nd respondent herein, and registered as Doc.No.P/52/2023.
- (2) The case of the 2nd respondent in the writ petition is that he purchased a piece of land measuring an extent of 274 sq.ft., out of 13 cents comprised in S.No.409/3 in TS.No.118/1, Block No.24, Ward-D, Door No.18, Periyasami Pillai Street, Kidangal Village, Tindivanam Taluk, Villupuram District and another piece of land measuring an extent of 162 sq.ft., with RCC building in the ground floor out of 13 cents comprised in S.No.409/3 in TS.No.103, Block No.24, Ward-B, Periyasami Pillai Street, in the very same village and Taluk, from one V.Gnanasekaran and his daughter Usha for a valuable consideration under the Sale Deed dated



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03.04.2023. It is his further case that the document though was registered on 03.04.2023, the 1st respondent/Joint Sub Registrar kept the document pending on the ground that the father of the appellant herein by name R.Sivasamy gave a complaint that he had purchased one of the items of properties shown in the document. It is further stated that on the basis of the protest petition filed by the father of appellant, the 1st respondent herein, though registered the document, did not release the same and the document is pending in the office of the Joint Sub Registrar. The writ petition was therefore, filed by the 2nd respondent herein for issuance of a writ of mandamus to direct the Sub Registrar to return the document.

(3)The writ petition was allowed by the learned Single Judge vide order dated 27.06.2024 holding that the registering authority has no power to retain the document, following the precedent of this Court in the case of ***Subramani Vs. The Sub Registrar [WP.No.11056/2023 dated 26.04.2024]*** and the learned Judge further held that the document after registration cannot be kept pending taking note of the fact that the appellant has also filed a civil suit and the suit is pending, the sale will not affect the writ petitioner's right. Challenging the same, the above writ



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appeal is preferred by the appellant mainly on the ground that the 1st respondent herein who is supposed to conduct an enquiry, may be directed to conduct an enquiry and then to pass appropriate orders to register the document and to return the same.

(4)The learned counsel for the appellant submitted that the appellant had filed a protest petition and the protest petition ought to have been disposed of by the 1st respondent herein on the basis of the Circular in Na.Ka.No.39708/C1/2018 dated 04.10.2018 as it is the duty of the 1st respondent to dispose of the representation of the appellant and his father.

(5)This Court has repeatedly held that the object of Registration Act was never to control transaction and it is purely procedural in nature. Merely because a third party registered a document of conveyance, that does not affect the right of the real owner of the property. The Registration Act specifically put an embargo on the registering authority to hold an enquiry as to the executant's title.

(6)Rule 55 of the Tamil Nadu Registration Rules framed therein, reads as follows:-



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"55.It forms no part of a registering officer's duty to enquire into the validity of a document brought to him for registration or to attend to any written or verbal protest against the registration of a document based on the ground that the executing party had no right to execute the document; but he is bound to consider objections raised on any of the grounds stated below:-

(a) that the parties appearing or about to appear before him are not the persons they profess to be;

(b) that the document is forged;

(c) that the person appearing as a representative, assign or agent, has not right to appear in that capacity;

(d) that the executing party is not really dead, as alleged by the party applying for registration; or

(e) that the executing party is a minor or an idiot or a lunatic."

(7)Therefore, this Court has repeatedly held that the registering authority has no jurisdiction or authority to decide the title or right of a person who execute a document of conveyance. In the instant case, the Registering Authority has no other reason to keep the document pending except the



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protest petition filed by a stranger to the document claiming title to the property which is also the subject matter of the Deed of Conveyance. As pointed out earlier, by passing an order refusing to register a document, the registering authority has now acted as a Civil Court restraining the individual from alienating the property.

(8) Keeping in mind, the law settled by this Court in several precedents, this Court is unable to find any reason to interfere with the order of the learned Single Judge. Since the document is kept pending, this Court presumes that the registration had not taken place. Therefore, the 1st respondent/Joint Sub Registrar is directed to register the document in accordance with law and to return the same to the 2nd respondent herein.

(9) The writ appeal stands **dismissed with the above direction.** No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [A.D.M.C., J.]
15.10.2024

AP

Internet : Yes



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To

Joint Sub Registrar No.II
Tindivanam, Villupuram.



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S.S. SUNDAR, J.,
and
A.D.MARIA CLETE, J.,

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