



W.P(MD)No.10010 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.10010 of 2024

S.Sivaraj

... Petitioner

Vs

1.The Inspector General of Registration,
Santhome High Road,
Santhome,
Chennai – 600 028.

2.The District Registrar,
Karaikudi Registration District,
Karaikudi.

3.The Joint Sub Registrar No.1,
Joint Sub-Registrar Office,
Karaikudi.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order of refusal passed by the third respondent in Kurippanai No.04 of 2024 dated 12.04.2024 and quash the same as illegal, consequently direct the third respondent to register the decree passed by the learned Sub Judge, Devakottai in O.S.No.81 of 2008 dated 25.08.2021 in accordance with law.

For Petitioner : Mr.P.Mani Anandh

For Respondents : Mr.S.P.Maharajan
Special Government Pleader



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ORDER

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This Writ Petition has been filed by the petitioner challenging the order passed by the third respondent dated 12.04.2024 thereby refusing to register the decree passed in O.S.No.81 of 2008 dated 25.08.2021 on the file of the Sub Court, Devakottai.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The petitioner entered into an agreement for sale with Mariammal and Ramadass in respect of the property comprised in Survey No.523/2 (Plot No.57) to an extent of 9.93 cents out of 20 cents situated at Kottaiyur Village, Karaikudi Taluk, Sivagangai District. On the date of the agreement, the petitioner had paid a sum of Rs.1,25,000/- as an advance out of a total sale consideration of Rs.1,98,000/-. However, the original land owner failed to execute the sale deed within a period of three months as per the condition of the agreement for sale on receipt of the balance sale consideration. Therefore, the petitioner filed a suit in O.S.No.81 of



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2008 on the file of the Sub Court, Devakottai seeking for specific performance by depositing the balance sale consideration. After trial, the suit was decreed in favour of the petitioner by judgment and decree, dated 25.08.2021. Thereafter, the said decree was presented for registration before the third respondent. However, it was refused to register the decree on the ground that the subject property was already sold out in favour of the third party and it is only a decree for specific performance and it has not become final.

4.Admittedly, the subject property in which the petitioner entered into an agreement for sale was already sold out to a third party. That apart, it is only a specific performance decree and only in the execution petition, the sale can be ordered in favour of the petitioner. Therefore, no purpose would be served if the decree is registered when the decree of the Court which has not attained finality cannot be admitted for registration. Further, though the trial Court decreed the suit and directed the defendant therein to register the sale deed within a period of three months from the date of the decree, the petitioner did not even take any steps to execute the said decree so far. In fact, even while pending the suit, the defendant had executed a sale deed dated 07.05.2008 in



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respect of the subject property vide Document No.1438 of 2008 in favour of the third party. Therefore, the third respondent rightly refused to register the decree and this Court finds no infirmity or illegality in the order passed by the third respondent dated 12.04.2024. Hence, this Writ Petition is devoid of merits and the same is liable to be dismissed.

5. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs.

21.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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