



W.P.(MD)No.17018 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.17018 of 2022
and W.M.P.(MD)No.12384 of 2022

Kalisamy

... Petitioner

Vs.

1.The District Registrar (Admin),
Palani, Dindigul District.

2.The Join Sub-Registrar-II,
Palani, Dindigul District.

3.Ravikala

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of the 1st respondent in his proceedings in Na.Ka.No.3519/E1/2021 dated 02.02.2022 and quash the same as illegal, consequently direct the 2nd respondent to register any document if presented for registration on the basis of registered documents in Document Nos.1088/1990 and 1089/1990 dated 18.10.1990.

For Petitioner : Mr.G.Gomathi Sankar

For Respondents : Mr.P.Subbaraj,
Spl. Govt. Pleader for R1& R2
Mr.R.Saravanan for R3



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ORDER

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This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of the 1st respondent in his proceedings in Na.Ka.No.3519/E1/2021 dated 02.02.2022 and quash the same as illegal and consequently direct the 2nd respondent to register any document if presented for registration on the basis of registered documents in Document Nos.1088/1990 and 1089/1990 dated 18.10.1990.

2. Heard the learned counsel for the petitioner, the learned Special Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent and perused the materials available on record.

3. It is the case of the writ petitioner that the properties in S.Nos.960/1, 960/3, 960/6, 961/1 and 961/2C were purchased by the petitioner and his father by way of a registered sale deeds dated 18.10.1990 in document Nos.1088/1990 and 1089/1990. Since a dispute arose between the petitioner, his father and the third respondent, with regard to the title of one of the particular subject property viz., in



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S.No.961/2C, the petitioner and his father has filed a suit in O.S.No.174 of 2014.

The said suit was dismissed. As against the same an appeal was filed in A.S.No.85 of 2019 and the same is pending. In the meantime, since the suit filed by the petitioner and his father ended in her favour, the third respondent has given a complaint before the 1st respondent to cancel the document in respect of S.No. 961/2C alone. On notice, the petitioner's father and his vendors gave a reply stating that an appeal suit is pending and hence, requested to dismiss the complaint given by the third respondent. However, without considering the said fact, the 1st respondent has passed the impugned order, directing the 2nd respondent not to register any document and made necessary entry in schedule II. Challenging the same, the petitioner has filed this Writ Petition.

4. On a perusal of the impugned order, it is seen that based on the decree passed by the District Munsif Court, Palani in O.S.No.174 of 2014, the impugned order has been passed to the effect that there cannot be any further transfer in respect of S.No.961/2C alone. It is admitted by both parties that challenging the decree of trial Court, an appeal suit is pending in A.S.No.85 of 2019 before the Sub-Court, Palani. In such view of the matter, any transfer or encumbrance is always subject to the result of the said appeal suit. Therefore, this Court is of the view that the impugned order is liable to be set aside.



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5. Accordingly, this Writ Petition is allowed and the impugned order of the 1st respondent dated 02.02.2022 is set aside. It is made clear that any transfer or encumbrance is always subject to the result of the appeal suit in A.S.No.85 of 2019, which is pending on the file of the Sub-Court, Palani. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

12.08.2024

NCC : Yes/No
Index : Yes/No

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To

- 1.The District Registrar (Admin),
Palani, Dindigul District.
- 2.The Join Sub-Registrar-II,
Palani, Dindigul District.



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N.SATHISH KUMAR, J.

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