



W.P(MD)No.19869 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.19869 of 2022

and

W.M.P.(MD)No.14457 of 2022

P.Balakrishnan

... Petitioner

Vs.

1.The Sub Registrar,
Kadambur,
Thoothukudi District.

2.Annalakshmi

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the Impugned Refusal Check Slip in RFL / Kadambur / Puththagam 2/2 dated 02.08.2022 on the file of the 1st Respondent and quash the same and further directing the 1st Respondent to receive and register the settlement deed dated 11.07.2022 executed by the Petitioner in favour of his sister Vathsala Devi in respect of the property bearing survey No.350/3, K.Chithambarapuram Village, Kayathar Taluk, and Thoothukudi District.



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For Petitioner : Mr.S.Selva Aditya,
For Mr.G.Prahu Rajadurai.

For Respondents : Mr.M.Senthil Ayyanar,
Government Advocate for R1.
Mr.K.Rajeshwaran for R2.

ORDER

Heard both sides.

2.Balakrishnan, the petitioner herein purchased the petition mentioned property measuring 3 acres and 99 cents vide sale deed dated 03.07.2009 from one Seenivasan. Now Balakrishnan wants to settle the property in favour of his sister / Vathsala. He executed settlement deed and it was presented for registration. The registration was refused on two grounds: (a) One Shanmugaiah had filed O.S.No.52 of 2011 on the file of District Munsif Court, Kovilpatti and the suit schedule includes the subject matter. (b) The total extent of S.No.350, K.Chithambarapuram Village, Kayathar Taluk measuring 12 acres but alienations have taken place for nearly 15 acres. Challenging the said stand of the registering authority, the present writ petition came to be filed.



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3.The learned counsel for the second respondent that the impugned order does not warrant interference. The learned Government Advocate for the registering authority also submitted that if the impugned order is interfered with, it will lead multiplicity of litigation and creation of third party rights.

4.I carefully considered the rival contentions and went through the materials on record. The first ground of refusal does not appear to be in order. Mere pendency of a civil suit cannot tie the hands of the registering authority. The plaintiff or any other party to the suit must have obtained a restraint order, then alone, the registering authority will be justified in refusing registration and not otherwise. In this case, Shanmugaiah had filed a suit for declaration and recovery of possession. Balakrishnan is figuring as seventh defendant. Shanmugaiah has not obtained any interim order. Thiru.Shanmugaiah, the original plaintiff is no more and his wife Annalakshmi had been substituted. I proposed to grant leave to Annalakshmi to file I.A. in the pending suit by making the registering authority in the I.A. even though he is not a defendant in the suit. I indicated that Annalakshmi can be given eight weeks time to obtain a interim order. If within this window period, Annalakshmi is unable to any interim order, the registration can be permitted to go on.



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5. When I gave this suggestion, the learned counsel for the petitioner submitted that instead, the registration can be allowed to go and Vathsala would implead herself in the pending suit without claiming any additional rights. He further submitted that Vathsala would not make any further encumbrance or alienation. She would not even raise superstructure. She would only enjoy the property and wait for the outcome of the suit.

6. The suggestion given by the learned counsel for the petitioner appeals to me. This writ petition is disposed of in the following terms:-

(a) Balakrishnan and Vathsala are permitted to re-present the petition mentioned document.

(b) The Sub Registrar, Kadambur shall receive the same, register it and release it subject to fulfilment of other usual formalities.

(c) Vathsala will file I.A. within two weeks after registration of the document for impleading herself as one of the defendants in the pending suit. The said I.A. will be allowed without notice to other parties by the learned Trial Munsif. Vathsala will not be permitted to file any additional pleadings. Vathsala will not create further encumbrance on the property. She will only enjoy the property and her rights will abide by the outcome of O.S.No.52 of 2011 on the file of District Munsif Court, Kovilpatti.



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(d) The suit is 13 years old. The learned District Munsif, Kovilpatti is directed to dispose of the same and final judgment and decree on merits and in accordance with law within a period of eight months from the date of receipt of a copy of this order. I make it clear that issuance of direction to conclude the suit will not in any way prejudice the claim or contentions of the defendants in the suit. No costs. Consequently, connected miscellaneous petition is closed.

18.03.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Note:-

The Registry to mark a copy of this order to the learned District Munsif, Kovilpatti.

To:-

The Sub Registrar,
Kadambur,
Thoothukudi District.

Copy to:

The District Munsif Court,
Kovilpatti.



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G.R.SWAMINATHAN, J.

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