



W.P.(MD)No.17207 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.17207 of 2018
and W.M.P.(MD)Nos.15174 & 15175 of 2018

1.P.Sekar
2.S.Pradishkumar

... Petitioners

Vs.

1.The Sub Registrar,
Sub-Registrar Office,
Illuppur,
Pudukkottai District.

2.K.Rajendran

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records comprised in inspection report No.1/2018 dated 03.07.2018 issued by the 1st respondent and quash the same as arbitrary, illegal and ultra vires the scheme of Registration Act, 1908 and consequently, direct the 1st respondent to register the sale deed dated 03.07.2018 presented by the 2nd petitioner.

For Petitioners : Mr.Raguvaran Gopalan

For Respondents : Mr.P.Subbaraj,
Spl. Govt Pleader for R1
Mr.G.Mathavan for R2



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ORDER

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This Writ Petition has been filed for issuance of a Writ of Certiorari Mandamus, calling for the records comprised in inspection report No.1/2018 dated 03.07.2018, issued by the 1st respondent and quash the same as arbitrary, illegal and ultra vires the scheme of Registration Act, 1908 and consequently, direct the 1st respondent to register the sale deed dated 03.07.2018 presented by the 2nd petitioner.

2. The case of the Writ Petitioners is that the first petitioner is the owner of the lands in S.Nos.25/1C and 438/1D2 in Patta No.249 and S.No.25/1B2 and 436/1D1B in Patta No.2640, situate in Illupur Village and Taluk. The 2nd respondent has a land adjacent to the first petitioner's property on the northern side. The 2nd respondent has created a forged and unregistered sale agreement dated 10.02.2011, by which he claims that the first petitioner agreed to sell 5 cents of land. The said agreement was denied by the first petitioner. While so, the 2nd respondent filed a suit in O.S.No.61 of 2018 for specific performance against the first petitioner. In the meantime, the first petitioner executed a sale deed dated 03.07.2018 in favour of the 2nd petitioner, to meet the family expenses. When the



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2nd petitioner presented the said sale deed for registration, the same was refused to be registered on the ground that a suit in O.S.No.61 of 2018 is pending. Hence, the petitioners have filed this Writ Petition.

3. The learned counsel appearing for the petitioners submitted that the suit filed by the 2nd respondent was dismissed for non-prosecution. At any event, mere pendency of a civil suit will not be a ground for refuse to register the document. Hence, the impugned order is liable to be set aside.

4. Whereas, the learned Special Government Pleader appearing for the first respondent would submit that since a suit is pending, the first respondent has refused to register the document and issued the impugned order. Hence, opposed this petition.

5. This issue is no longer *res integra*. This Court already in several judgments has held that mere pendency of a civil suit will not be a ground for refuse to register the document. It is at the risk of the party to purchase the property during the pendency of the suit. Such transfer is always subject to the result of the suit. Therefore, mere pendency of a civil suit will not be a ground for



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refuse to register the document. This issue has already been elaborately discussed by this Court in ***Subramani Vs. 1.The Sub-Registrar, Office of the SubRegistrar, Rasipuram. 2. The Inspector General of Registration, Chennai [W.P.No.11056 of 2024, dated 26.04.2024]***.

6. Therefore, following the said decision, the impugned order issued by the first respondent dated 03.07.2018 is set aside. Consequently, the first respondent is directed to register the sale deed dated 03.07.2018 presented by the 2nd petitioner, within a period of one week from the date of receipt of a copy of this order.

7. Accordingly, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

08.08.2024

NCC : Yes/No
Index : Yes/No
vsm



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To

The Sub Registrar,
Sub-Registrar Office,
Illuppur,
Pudukkottai District.



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N.SATHISH KUMAR, J.

vsm

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