



W.P.(MD)No.26401 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.11.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)No.26401 of 2024

G.Ravindran

... Petitioner

/Vs./

The Sub Registrar,
Mannachanallur Sub Registrar Office,
Mannachanallur
Trichy District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondent to register the sale deed dated 20.09.2024 executed by G.Pilavendiran, G.James Selvaraj, S.Mesiya, P.Samikannu, P.Velankanni, P.Louis, P.Panneerselvam, V.Antonyammal, V.Nickson Sagayaraj, Helan Rosemary, Sophia Daisyrani, Francis, Irudhayam, Susai Manickam and Albert in favour of the petitioner in respect of the properties situated in S.Nos. 219/15, 219/16, 219/18, 219/19, 219/20 and 219/21A totally having an extent of 3.08.50 Hectares (7.62 Acres), Irungalur Villae, Mannachanallur Taluk, Trichy District.



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For Petitioner : Mr.P.Krishnan
For Respondent : Mr.S.P.Maharajan
Special Government Pleader

ORDER

This writ petition has been filed directing the respondent to register the sale deed dated 20.09.2024 executed by third parties in favour of the petitioner in respect of the properties situated in S.Nos. 219/15, 219/16, 219/18, 219/19, 219/20 and 219/21A totally having an extent of 3.08.50 Hectares (7.62 Acres), Irungalur Villae, Mannachanallur Taluk, Trichy District.

2. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

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



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4. According to the petitioner, the properties situated in S.Nos. 219/15, 219/16, 219/18, 219/19, 219/20 and 219/21A totally having an extent of 3.08.50 Hectares (7.62 Acres) at Irungalur Villae, Mannachanallur Taluk, Trichy District belong to 15 persons and they were already issued with patta. The petitioner intended to purchase the subject properties and a sale deed was also executed in his favour. Though the document was presented for registration on three occasions, it was returned on the ground that the subject properties belong to Kalaimagal Saba and as such, no one has right to deal with the subject properties, since Kalaimagal Saba is under liquidation.

5. The learned counsel appearing for the petitioner would submit that in order to grab the subject properties, a fictitious sale deed was registered by impersonating the original owner in favour of Kalaimagal Saba, Kumarapalayam. In pursuant to the said sale deed, Kalaimagal Saba claimed title over the subject properties. Immediately, the original owner of the properties lodged a complaint. During enquiry, Kalaimagal Saba admitted that they had been cheated by unknown persons by



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impersonating the original owner of the properties and also handed over the fictitious sale deed dated 26.03.1992 to the original owner. Subsequently, the original owner had executed settlement deeds and sale deeds in respect of the subject properties to various persons. Now, the vendors of the petitioner numbering to 15 persons, have title over the subject properties on receipt of various sale consideration and all the revenue records were also mutated in favour of the petitioner's vendors. Therefore, the petitioner's vendors have valid title over the properties.

6. In this regard, the learned counsel appearing for the petitioner, relied upon the judgment of the Division Bench of this Court, in the case of ***N.Ramayee vs. Sub Registrar, Registration Department and Another*** reported in ***2020 (5) LW 385*** and the relevant paragraphs are extracted hereunder:-

“47. It is also brought to our notice about the new circular in No. 24011/C1/2020 dated 08.10.2020. It is the contention of the learned Additional Advocate General that the Registrar has power to regulate the registration in order to prevent fraud and hence, the Registrar is having powers under the Registration Act to regulate the registration and the right to refuse the document and that such power is



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available under Section 71 of the Registration Act. Such contention is not acceptable for the simple reason that the circular bars transfer of property on the ground that when a lease is already executed in respect of the property, without expiry of the lease, transfer cannot be permitted or without consent of lessee no registration is permissible. Further, insisting a no objection from mortgagee before registration is also against the very substantive provision of law. If any property is sold with existing mortgage, the transferee steps into the shoes of mortgagor. He has the right to redeem the property by paying the mortgage money. Therefore in the name of regulating the registration, any circular which is in the nature of violating the substantive provision of law, which deals with the transfer of property, then such circular cannot stand in the eye of law. If the contention of learned Advocate General that without seeking declaration and cancellation of the agreement of sale, subsequent agreement or transaction cannot be registered, is accepted then such restriction, in fact, infringes the very Constitutional right of the citizen provided under Article 300 A of the Constitution.

48. We are of the view that except as provided in the Registration Act and any other statute, the Registrar has no power to refuse to register a document. Though the object of the Act is to prevent fraud, such occasion arises only where some private properties are notified under the Tamil Nadu Private Forest Act. In such case, sale of such property without permission of the Collector of the District is void.



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Only when such notification is available in respect of any property, the Registrar can verify whether the sanction of the Collector is obtained or not. Similarly, whenever properties have been declared as forest land or elephant corridor, etc., and the notification is available with the Registrar, based on the above notification he can exercise power. Except the above, the Registrar has no power to refuse to register the document.

49. As already indicated, the purpose of registration is only to give a public notice. It is for the buyer or subsequent transferee to make reasonable enquiry. Doctrine of caveat emptor will also apply to every transfer. It is for them to verify the title of the property by making reasonable enquiry. At any event, subsequent transfer will always be subject to the rights already created. Therefore, it cannot be said that merely because agreement for sale is registered without obtaining decree of declaration that such agreement is void, subsequent transfer is prohibited and cannot be registered. We hold that as discussed in our judgement, Registrar has no right to refuse to register the subsequent document on the basis that agreement of sale was already registered in respect of same property. Accordingly, the reference is answered. Post the writ petition in W.P.No.674 of 2020 before the learned single judge for disposal. ”



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7. This Court is of the view that the respondent has no power to refuse to register the subsequent document, on the basis of the agreement of sale, which was already registered in respect of the very same property.

8. In view of the above, the petitioner is directed to re-present the sale deed, which was executed in his favour within a period of one week from the date of receipt of a copy of this order and on receipt of the same, the respondent is directed to register and release the document within a period of one week thereafter.

9. With the above direction, this writ petition is disposed of. No costs.

04.11.2024

Index : Yes / No
NCC : Yes / No
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G.K.ILANTHIRAIYAN, J.

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TO:-

The Sub Registrar,
Mannachanallur Sub Registrar Office,
Mannachanallur
Trichy District.

Order made in
W.P.(MD)No.26401 of 2024

Dated:
04.11.2024