



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2025

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.4338 of 2025

S.Jeevaraj

... Petitioner

Vs.

1.The District Registrar,
Puducherry.

2.The Sub Registrar,
Thirukanur,
Puducherry.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the 1st Respondent pertaining to his order in No.2320/DRP/RD/2024/1082/129 dated in 29.02.2024 and quash the same.

For Petitioner : Mr.K.S.Karthik Raja

For Respondents : Mr.A.Tamilvanan
Additional Government Pleader



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ORDER

This writ petition has been filed challenging the proceedings of the 1st respondent dated 29.02.2024 affirming the order of refusal passed by the 2nd respondent dated 18.07.2023.

2.Heard Mr.K.S.Karthik Raja, learned counsel appearing on behalf of the petitioner and Mr.A.Tamilvanan, learned Additional Government Pleader appearing on behalf of the respondents.

3.The petitioner was intending to sell his 1/4th share for which the petitioner was claiming title through a registered Settlement Deed dated 30.03.2022. When the document was presented for registration, the 2nd respondent through the order of refusal dated 18.07.2023, refused to register the document on the ground that a suit has already been filed in O.S.No.159 of 2020 before the III Additional District Judge, Puducherry in which the relief of partition was sought for. That apart, yet another suit has been filed in O.S.No.595 of 2022 by one of the co-owners before the II Additional District Munsif, Puducherry seeking for the declaration to declare



the Settlement Deed dated 30.03.2022 as null and void and for the relief of permanent injunction. In view of the same, the 2nd respondent came to a conclusion that the pendency of the suit will be a bar to register the document that was presented for registration.

4.The petitioner aggrieved by the refusal order passed by the 2nd respondent, filed an appeal before the 1st respondent and the 1st respondent through the impugned proceedings dated 29.02.2024, confirmed the order passed by the 2nd respondent and dismissed the appeal. Aggrieved by the same, the present writ petition has been filed before this Court.

5.In the considered view of this Court, there is no bar in law for a co-owner of the property to deal with his share in the property. Even if a suit is pending, the same cannot act as a bar unless the Court has passed an interim order restraining any such alienation. If any property is purchased during the pendency of the suit, it will be subject to the rule of lis pendens. Hence, if the petitioner is intending to sell his share in the property, the purchaser of the property will get into the shoes of the petitioner and seek for the allotment of the share to which the petitioner is entitled.



The law on this issue was dealt with by this Court in ***Vadamugam Vellode Nalukarai Nattu Gounergal Sangam vs. Inspector General of Registration, Registration Department, Chennai 600 028*** reported in ***2021 1 CTC 535***.

6. Both the authorities have dealt with the document by getting into the rights of the parties and insofar as the registering authority is concerned, it is not necessary for them to go into such intricate details regarding the right over the property. The authorities have come to a conclusion that the property remains undivided and if any alienation or transfer of property is made, it will affect the right of the other co-owners. This finding is unwarranted since the purchaser of the property ultimately will get into the shoes of the petitioner and will seek for the share in the property and the mere registration of the Sale Deed will not give any additional right to the purchaser of the property.

7. The authorities must only ensure that the petitioner does not sell any specific portion of the property and while describing the property, the property has to be described as a whole in which 1/4th undivided share alone will have to be sold. That apart, for proper conveyance of the property, the pending litigation shall



also be brought in as one of the clauses in the Sale Deed. So that purchaser is made aware about the pending litigation. If this is done, there will be no bar in entertaining the document and registering the same.

8.The petitioner shall add the necessary clauses in the Sale Deed as has been observed by this Court *supra* and shall re-present the document for registration before the 2nd respondent and the document shall be registered, if it is otherwise in order.

9.This writ petition stands allowed with the above directions. No Costs.

14.02.2025

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
ssr

To

- 1.The District Registrar,
Puducherry.
- 2.The Sub Registrar,
Thirukanur, Puducherry.



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N. ANAND VENKATESH, J.

SSI

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