



W.P.(MD) No.26553 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD) No.26553 of 2023

R.Premakumari (died)

1.G.Radhakrishnan

2.V.Sivamasundari

3.R.Neelakandan

4.B.Shanmugapriya

...

Petitioners

Vs

1 The District Registrar,
Registration Department,
Karur District.

2 The Sub Registrar,
Melakarur Sub Registrar Office,
Karur District.

3 Ramakrishnan

...

Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India,
praying for issuance of a writ of certiorarified mandamus, to call for the



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records relating to the impugned order in Na.Ka.No.4066/Aa1/2023, dated 27.09.2023, on the file of the 1st respondent and quash the same as illegal and consequently direct the 1st and 2nd respondents to register and release the pending document submitted by the petitioner in Pending Doc.No. 60/2023, dated 11.05.2023.

For Petitioners : Mr.B.Prasanna Vinoth

For Respondents 1 & 2: Mr.R.Suresh Kumar,
Addl. Govt. Pleader.

For Respondent 3 : Mr.V.Nagarajan

ORDER

The petitioner seeks issuance of a writ of certiorarified mandamus to quash the proceedings of the District Registrar, Karur, 27.09.2023, quash the same and to direct the respondents 1 and 2 to register the pending document in Document No.60/2023, dated 11.05.2023.

2. The petitioner Premakumari is no more. On an application filed by the legal representatives, they have been impleaded as parties to the proceedings. As they are husband and children of the deceased Premakumari, they are entitled to continue the proceedings, as the cause of action devolves on them.



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3. The first petitioner claimed that she was the owner of the property situated in Survey No.598 at Andankovil Keelpagam Village, Manmangalam Taluk, Karur Distrit. She had purchased the same by way of three registered documents, dated 24.01.1979, 06.06.1979 and 14.07.1993 in Document Nos.170/1979, 2189/1979 and 2776/1993 respectively.

4. The petitioner claimed that while she was travelling in a bus to Karur, she misplaced the original title deeds and, therefore, applied to police for issuance of non-traceability certificate. The police too benefited her with such a document on 21.11.2020. The purpose of obtaining non-traceability certificate was to enable the petitioner to execute a sale deed in favour of her daughter Shanmugapriya and son-in-law Balaji. The petitioner pleaded she received a sum of Rs.20.00 lakhs from her daughter and son-in-law and executed a sale deed on 11.05.2023.

5. The third respondent, who claimed to be a creditor of the petitioner, her husband and children, gave an objection petition to the second respondent. He pleaded that the petitioner, her husband and children had deposited the original title deeds with him. He also pleaded that the petitioner had defaulted in payment of moneys due to him, constraining him to file O.S.No.907 of 2022 on the file of Principal Subordinate Court, Karur. The said suit was for recovery of money.



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6. The second respondent, taking into consideration the objection that had been given by the third respondent, issued Refusal Check Slips, accepting the objection of the third respondent. An appeal was preferred to the first respondent. He upheld the Refusal Check Slips. Hence, the present Writ Petition.

7. I have heard Mr.Prasanna Vinoth, learned counsel for the petitioner; Mr.R.Suresh Kumar, learned Additional Government Pleader, for the respondents 1 and 2; and Mr.V.Nagarajan, learned counsel for the third respondent.

8. The plea of Mr.Prasanna Vinoth is that the allegation of the third respondent that he is the creditor and the petitioner is the debtor is false. He points out that only one suit had been presented at the time of passing of the impugned order, namely, O.S.No.907 of 2022 on the file of Principal Subordinate Court, Karur, and that, in the said proceedings, writ petitioner, Premakumari, was not even a party. He further points out that after the orders were passed, another suit was presented in O.S.N.145 of 2023 on the file of District Court, Karur, by the third respondent, seeking relief of recovery of money. He states that there is no order of attachment and, therefore, the impugned orders are liable to be interfered with.



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9. Per contra, Mr.V.Nagarajan, urges that the documents relating to the subject matter of the writ petition had been deposited by the writ petitioner, her husband and son, as security for the amounts received by them, after executing pro-notes, in favour of the third respondent. He states that the statement of the petitioner that she lost the original documents is false. He further states that he is in possession of the original documents and the petitioner wants to cheat the creditor, by falsely stating that the documents are lost, and is projecting a false case of alienation of the property to her daughter and son-in-law. He also adds that there are absolutely no bonafides in the case of the petitioner. He further states that in the interlocutory application filed for attachment before the learned District Judge, Karur, in I.A.No.2 of 2023 in O.S.No.145 of 2023, the petitioners are not cooperating for disposal and are merely seeking adjournments. In fine, his plea is that as the original documents are with him, no sale deed must be registered for the property till the disposal of the suits.

10. Mr.R.Suresh Kumar, learned Additional Government Pleader, appearing for the official respondents, states that in terms of Rule 55 (A) (i) of the Tamil Nadu Registration Rules, it is the duty of the executant of a sale deed to present the parent document before the Sub-Registrar, and, in this



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case, since originals were not produced, the first and second respondents were constrained to pass the impugned orders.

11. I have carefully considered the submissions of all the counsel and also gone through the records.

12. With respect to the plea that original document would have to be produced at the time of registration, the consistent view of this Court is that a Sub-Registrar cannot call upon a party to produce the original deeds. This view, taken by a Division Bench of this Court, in *P.Pappu v. Sub-Registrar, Rasipuram*, 2024 (5) CTC 575, had been confirmed by the Supreme Court on 03.02.2025. Therefore, the ground urged by Mr.Suresh Kumar is a non-existent one. For the mere fact that original documents have not been produced does not mean a person cannot register a sale deed.

13. In so far as the submission of Mr.V.Nagarajan is concerned, taking the case of the third respondent at the highest, he has a claim only for money. There is no relation of mortgagor-mortgagee between the petitioner and the third respondent. The position of law is that even if there is a mortgage, the mortgagor will be entitled to alienate the property and the purchaser would receive the property, subject to the mortgage. As the third respondent is only a creditor, his remedy is to get an order for attachment of the property in the pending suit. The third respondent is well aware of this



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position and hence, he has moved an application for attachment in I.A.No.2 of 2023 in O.S.No.145 of 2023 before the learned District Judge, Karur.

14. Even if a creditor objects to the registration of a document, the first and second respondents are not entitled to reject the sale deed presented for registration. Even if the sale by the writ petitioner in favour of her daughter and son-in-law is fraudulent, the interest of the third respondent is protected by virtue of Section 53 of of Transfer of Property Act. The first and second respondents need not have substituted themselves in the place of a civil court and protect the interests, when Transfer of Property Act and Civil Courts are always there, to come to the rescue of the creditor.

15. In the light of the above discussion, I pass the following order :

(1) Writ Petition succeeds.

(2) Impugned Order is quashed.

(3) There shall be a direction to the learned District Judge, Karur, to dispose of I.A.No.2 of 2023 in O.S.No.145 of 2023, within a period of six weeks from the date of receipt of copy of this order.

(4) Petitioners are restrained from presenting any document of sale for a period of six weeks.



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(5) In case the third respondent obtains an order of attachment from the Civil Court, the respondents 1 and 2 will be duty bound to implement that order.

(6) If an order of attachment is not passed by the Civil Court, the petitioners will be free to execute any document of alienation in favour of any person, after a period of six weeks.

(7) Learned District Judge, Karur, shall submit a report to this Court, after disposal of the application.

16. Writ Petition is allowed accordingly. No costs.

05.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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Note to Registry :

Forward a copy of this order to learned District Judge, Karur, to ensure that the direction given for disposal of I.A.No.2 of 2023 in O.S.No.145 of 2023 is implemented.



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To:

- 1 The District Registrar,
Registration Department,
Karur District.
- 2 The Sub Registrar,
Melakarur Sub Registrar Office,
Karur District.



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V.LAKSHMINARAYANAN, J.

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