



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.08.2015

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P. (MD) No.14276 of 2015
and MP. (MD) .No.1 of 2015

LIYAKATH ALI

... Petitioner

Vs.

- 1 STATE OF TAMILNADU
REP. BY ITS SECRETARY TO THE GOVERNMENT
DEPARTMENT OF COMMERCIAL TAXES AND REGISTRATION
FORT SAINT GEORGE, CHENNAI 600 009.
- 2 THE INSPECTOR GENERAL OF REGISTRAR
REGISTRATION DEPARTMENT
SANTHOME, CHENNAI 600 028.
- 3 THE DISTRICT REGISTRAR
REGISTRATION DEPARTMENT
TENKASI, TIRUNELVELI DISTRICT.
- 4 THE SUB REGISTRAR
REGISTRATION DEPARTMENT
IDAIKAL, TENKASI TALUK,
TIRUNELVELI DISTRICT.

5 MR.SHAHUL HAMID

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 4th respondent to pass orders on the representation of the petitioner dated 24.07.2015 by conducting enquiry with respect to the Settlement Deed dated 08.08.2014 executed in favour of the 5th respondent and registered as document No.2993 of 2014 for the property situated at Achanpudur Village, Tirunelveli District comprised in New Survey No.549/2A measuring 4.5 cents and cancel the same.

For Petitioner ... Mr.S.A.S.Mujibur Rahman

For Respondents ... Mr.K.Mahesh Raja
Government Advocate for RR-1 to 4

ORDER

The writ petition has been filed praying this Court for issuance of a Writ of Mandamus directing the 4th respondent to pass orders on the representation of the petitioner dated 24.07.2015, by conducting enquiry with respect to the settlement deed dated 08.08.2014 executed in favour of the 5th respondent and registered as document No.2993 of 2014 for the



property situated at Achanpudur Village, Tirunelveli District comprised in New Survey No.549/2A measuring 4.5 cents and cancel the same.

2. It is the case of the petitioner that the property situated at Achanpudur Village comprised in Old Sy.No.52/9 measuring 13 cents having acquired through the gift deed dated 02.03.1956, was registered in the office of the Sub-Registrar, Sengottai by one Diwan Meeral Beevi in favour of late Hasan Muthu and Mohideen Pitchai. The said Late Hasan Muthu and Mohideen Pitchai had jointly executed a sale deed in respect of the 4 cents out of 13 cents in favour of the petitioner's father Late Kalandhar Mohideen through the sale deed No.2674 of 1962, dated 04.10.1962, registered in the office of the Sub-Registrar, Sengottai. The above said late Hasan Muthu and Mohideen Pitchai had executed a partition deed dated 05.10.1962 in respect of the remaining 9 cents comprised in Sy.No.52/9A. As per the partition deed, the western side of 4.5 cents have been allotted to Hasan Muthu and the eastern side of 4.5 cents have been allotted to Mohideen Pitchai. Thereafter, the late Hasan Muthu, had sold out his entire share of 4.5 cents in favour of the petitioner's father through the registered sale deeds, dated 14.03.1964 and 07.07.1966 respectively. Insofar the above said Mohideen Pitchai is concerned, he had also sold out 2 cents out of the share of 4.5 cents through the registered sale deed dated 06.11.1973 in the office of the Sub-Registrar, Sengottai. Thus, he retained 2.5 cents out of 13 cents. Thereafter, by ignoring the above fact, a gift settlement deed has been executed by Mr.Mohideen Pitchai in favour of the 5th respondent comprised in Sy.No.549/2A measuring 4.5 cents and registered as document No.2993 of 2014, dated 08.08.2014, in the office of the Sub-Registrar, Idaikkal, without properly verifying the documents and the ownership as per the circular No.67 dated 03.11.2011 issued by the 2nd respondent.

3. It is the further case of the petitioner that by virtue of the circular issued by the 2nd respondent, the 4th respondent should insist on the presentation of previous original deed by which the executants acquire right over the said property before registering a document and then verify the previous documents to satisfy himself that the executant have a right over the property. According to the said circular dated 08.11.2013, the registering authority should insist for encumbrance certificate within 10 days prior to registration. Therefore, in view of the above circular, the petitioner made a representation to the 4th respondent on 24.07.2015 with a request to conduct a roving enquiry with respect to the registration of the gift settlement deed No.2993 of 2014, dated 08.08.2014. Even after receiving the said representation, the fourth respondent has not taken any action till date. Hence, the petitioner has come forward with the present writ petition.

3. Heard the submissions made on either side and carefully perused the materials available on record.

4. Considering the submissions made on either side, this Court is constrained to to pass the following order:

Without going into the merits of the averments made in the writ petition, this Court directs the fourth respondent to consider the representation of the petitioner dated 24.07.2015, as per the circular dated 08.11.2013, issued by the second respondent and pass appropriate



orders, after affording an opportunity of hearing to all the parties concerned, on merits and in accordance with law, within a period of 8 weeks from the date of receipt of a copy of this order. It is made clear that this Court is not expressing any opinion on the merits of the averments made in the writ petition.

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5. The writ petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

The Assistant Registrar(crl.side)

/True copy/

Sub-Assistant Registrar

To

- 1 THE SECRETARY TO THE GOVERNMENT
STATE OF TAMILNADU
DEPARTMENT OF COMMERCIAL TAXES AND REGISTRATION
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REGISTRATION DEPARTMENT
IDAIKAL, TENKASI TALUK,
TIRUNELVELI DISTRICT.

+1cc to M/s.A.S.Mujibur Rahman, Advocate Sr.NO.45648

+1cc to special Government Pleader Sr.nO.45959

vs

sm:SK-SKN:SAR J:26.8.2015:2P/7C

W.P. (MD) No.14276 of 2015
11.08.2015