

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.11644 of 2016

and

WMP.No.10052 of 2016

1.V.Sundar
2.S.Bhavani

... Petitioners

vs.

1.The Sub Registrar (District Registrar Grade)
Office of the Sub Registrar,
Kodambakkam,
Chennai 600 026.

2.The Inspector General of Registration-cum-
Chief Controlling Revenue Authority,
Santhome,
Chennai 600 004.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus to call for the records of the first respondent dated 25.09.2015 and made in Document No.P.364/2015 and quash the said order of the first respondent as illegal and without jurisdiction and consequently direct the respondents to release the release deed, pending document No.P.364/2015 on the file of the first respondent.

For Petitioners : Mr.G.Ravi Sankar

For Respondents : Mr.S.Navaneethan, AGP

ORDER

By consent of both the parties, the writ petition is taken up for final disposal at the time of admission itself. Heard the learned counsel for the petitioners and the learned Additional Government Pleader, who took notice for the respondents.

2. The petitioners have come up with the present writ petition challenging the notice dated 25.09.2015 issued by the

first respondent and consequently, directing the respondents to release the document bearing No.P.364/2015, pending on the file of the first respondent.

3. It is the case of the petitioners that originally, the property situated at Old No.12, New No.29 Aziz Nagar 2nd Street, Kodambakkam, Chennai-600 024 belonged to their grandfather Sundaram Pillai, who purchased the same, under a registered sale deed bearing Document No.51/1943 and he died intestate leaving behind his legal heirs viz., (i)Pushpavathi (wife) (ii)Kamala (daughter) (iii)S.Ethirajan (son) (iv) S.Venugopal (son) (v)S.Padmanabhan (son) (vi)S.Santhakumari (daughter) and (vii)S.Vijayakumar (son). Out of above said legal heirs, Pushpavathi, who was the wife of the said Sundaram Pillai, died. Further, S.Padmanabhan, S.Venugopal and S.Ethirajan, who are the sons of the said Sundaram Pillai, died on 07.10.1977, 19.07.1989 and 02.01.2011 respectively, without any issues. Therefore, the remaining legal heirs viz., (i) S.Santhakumari, (ii)S.Vijayakumar and (iii)legal heirs of Kamala i.e., petitioners herein, have inherited the said property and have become the owners of 1/3rd share each in respect of the same, as per the provisions of the Hindu Succession Act.

4. It is the further case of the petitioners that while so, one of the legal heirs of Sundaram Pillai viz., S.Santhakumari had executed a document in favour of other legal heir S.Ethirajan, relinquishing her 1/3rd share in respect the property in question by way of release deed dated 12.03.2012, which was registered as Document No.820/2012 on the file of the Sub Registrar, Kodambakkam, thereby, the said Ethirajan had become the owner of 2/3rd share in the property in question. Thereafter, the petitioners herein, who are the legal heirs of Kamala, have agreed to release their 1/3rd share in favour of the said S.Ethirajan. Accordingly, they have executed a release deed and presented the same for registration before the first respondent. Though the first respondent received the same, he is keeping the same as pending document bearing No.P.364/2015. Subsequently, the first respondent issued a notice dated 25.09.2015 in Document No.P364/2015, calling upon the petitioners to pay the deficit stamp duty of Rs.8,33,740/- and deficit registration fee of Rs.1,04,220/-. Aggrieved over the said letter, the petitioners have filed the present petition for the above stated relief.

5. Though the petitioners have raised very many averments in this writ petition against the impugned notice issued by the first respondent, learned counsel for the petitioners, during the course of his argument, submitted that it would be suffice, if a direction is given to the respondents to dispose of the representation to be made by the petitioners, within the time stipulated by this Court.

6. In view of the submission so made by the learned counsel for the petitioners, this Court permits the petitioners to file a detailed representation, enclosing the relevant documents in support of their claim, along with a copy of this order to the respondents within a period of two weeks from the date of receipt of a copy of this order. On filing of such representation, the respondents are directed to consider the same, by affording an opportunity of personal hearing to the petitioners and pass appropriate orders, with regard to release of the document in P.No.364/2015 dated 25.09.2015, within a period of six weeks thereafter. It is made clear that this Court is not expressing any opinion with regard to the merits of the claim made by the petitioners and it is for the respondents to pass appropriate orders purely on merits and in accordance with law.

7. The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Sub Registrar (District Registrar Grade)
Office of the Sub Registrar,
Kodambakkam,
Chennai 600 026.

2.The Inspector General of Registration-cum-
Chief Controlling Revenue Authority,
Santhome, Chennai 600 004.

+1cc to Mr.G.Ravishankar, Advocate, S.R.No.19797
+1cc to the Government Pleader, S.R.No.20082

W.P.No.11644 of 2016

ca(CO)
srg(05/04/2016)