

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

WP.No.14581 of 2016

V.Kalaiyarasi

Petitioner

Vs

The Sub Registrar, Kuthallam
Myladuthurai Registration District
Nagapattinam District, Tamil Nadu 609 801

Respondent

Prayer:- This Writ Petition is filed to issue a Writ of Mandamus, directing the Respondent to register the Settlement Deed, dated 11.4.2016, executed by the Petitioner in favour of her only daughter Sivaranjani, pertaining to 9.8 cents comprised in S.No.244/24 and 4.9 cents comprised in S.No.244/7A1 of Pandanallur Village, Myladuthurai Registration District and Kuthallam Registration Sub District.

For Petitioner : Mr.P.V.Balasubramaniam

For Respondent : Mr.P.Rajalakshmi, Government Advocate

ORDER

This Writ Petition is filed to issue a Writ of Mandamus, directing the Respondent to register the Settlement Deed, dated 11.4.2016, executed by the Petitioner in favour of her only daughter Sivaranjani, pertaining to 9.8 cents comprised in S.No.244/24 and 4.9 cents comprised in S.No.244/7A1 of Pandanallur Village, Myladuthurai Registration District and Kuthallam Registration Sub District.

2. The facts, which are necessary for disposal of this Writ Petition, are that the husband of the Petitioner owned 9.8 cents comprised in S.No.244/24 and 4.9 cents comprised in S.No.244/7A1 of Pandanallur Village, Myladuthurai Registration District and Kuthallam Registration Sub District and had been in possession and enjoyment of the same for over three decades and all the revenue records stood in his name, including the Patta No.519 issued by the concerned Tahsildar. The husband of the Petitioner died on 2.7.2013, leaving behind his wife, the Petitioner herein and his only daughter Sivaranjani, who after

her marriage settled at Chennai, as his legal heirs. The Petitioner also obtained a legal heirship certificate dated 20.2.2014 from the Tahsildar concerned. After obtaining encumbrance certificate from 1.1.1987 to 6.4.2016 for the said lands, out of love and affection, the Petitioner executed a settlement deed dated 11.4.2016, bequeathing her share in favour of her daughter and presented the same for registration before the Respondent along with necessary stamp duty and registration fee, by way of DD Nos.061460 and 06161 of City Union Bank, Kuthallam. However, the Respondent returned the document without registration, along with a letter dated 11.4.2016, stating that since there is a building in the property, additional stamp duty should be paid. But, there is no such building on the said lands. Again when the Petitioner presented the document, after changing the recitals, for registration on 12.4.2016, the Respondent returned the document without registration on the grounds that (1) title is not stated whether through purchase or hereditary possession, (2) the document is not as per format of settlement deed given in official website of Registration Department and (3) there is an objection dated 12.4.2016 filed by one Shyam Sundar, Son of Thiruselvam for registration of the settlement deed executed by the Petitioner. Hence, this Writ Petition has been filed for the relief as stated above.

3. The learned counsel for the Petitioner has submitted that though there are enough documents in favour of the Petitioner, such as encumbrance certificate, legal heirship certificate and patta, without considering the same, the Respondent refused to register the document, citing unsustainable reasons and on the basis of the objection dated 12.4.2016 of a third party and that the copy of the said objection was also not furnished to the Petitioner, despite her request to furnish the same and that the Respondent cannot deny her legitimate rights in getting the settlement deed registered in favour of her only daughter and hence, prayed for allowing this Writ Petition.

4. On the other hand, the learned Government Advocate for the Respondent has submitted that on the basis of the objection dated 12.04.2016 submitted by one Shyam Sundar, who also claimed to be one of the legal heirs of the deceased husband of the Petitioner and since there is no proper explanation as to how the Petitioner had acquired the property mentioned in the settlement deed, the registration of the document submitted by the Petitioner was denied and hence, prayed for dismissal of this Writ Petition.

5. This court heard the learned counsel on either side and considered their submissions and also the perused materials available on record.

6. According to the Petitioner, the Petitioner is in possession of valid title documents in her favour. The Respondent refused to register the document in question, for want of additional stamp duty since there is a building in the property, but, according to the Petitioner, there is no such building in the property in question. Further, in respect of the document in question, there is also an objection filed by a third party, who also claimed to be one of the legal heirs of the deceased husband of the Petitioner. While so, the Respondent ought to have conducted an enquiry in this regard and thereafter passed appropriate orders with regard to the recitals of the document. Accordingly, the Respondent is directed to conduct an enquiry and also consider the objection dated 12.4.2016 and thereafter, pass appropriate orders, after giving sufficient opportunity to the Petitioner as well as to the necessary party, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. It is also made clear that this court is not expressing any opinion on the merits of the claim of the Petitioner and it is for the Respondent to proceed further on merits and in accordance with law.

7. With the above directions, this Writ Petition is disposed of. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To:

The Sub Registrar, Kuthallam,
Myladuthurai Registration District
Nagapattinam District, Tamil Nadu 609 801

+1 cc to Government pleader sr.27954
+1 cc to Mrs.BSF.Legal Advocate sr.27063

WP.No.14581 of 2016

lrs(co)
aa10/05/2016