

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.26795 of 2015

1.Safira
2.S.Nandeeshaw
3.Shamshad Begum
4.Asghar Ali
5.Habeeba
6.Mohamed Rafeeq
7.Fathima Banu
8.Habeebunisha Petitioners

vs.

1.The Inspector General of
Registration,
Santhome, Chennai.
2.The Joint Sub Registrar I,
(District Registrar Cadre),
District Registrar's Office,
Vellore. Respondents.

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the second respondent to accept the sale deed dated 6.8.2015 executed by the petitioners 3 to 8 in favour of the petitioners 1 and 2 for registration by considering the representation of the petitioners dated 6.8.2015 in the light of Circular No.18223/C1/2013-3 dated 8.11.2013.

For Petitioners : Mr.G.Rajan

For Respondents : Mrs.P.Rajalakshmi,
Govt. Advocate.

ORDER

The present writ petition has been filed for issuance of writ of mandamus, directing the second respondent to accept the sale deed dated 6.8.2015 executed by the petitioners 3 to 8 in favour of the petitioners 1 and 2 for registration by considering the representation of the petitioners dated 6.8.2015 in the light of Circular No.18223/C1/2013-3 dated 8.11.2013.

2. The case of the petitioners, in brief, is as follows:-

(a) Originally, the properties admeasuring 0.10 acre, 0.25 acre, 0.09 acre, 0.14 acre, totally admeasuring 0.26.5 acres comprised in T.S.No.1631, 1627/1, 2, 1579 and 1632 respectively, situated at Block No.26, Ward No.2, Vadavellore Town, Vellore Taluk and District were the absolute property of one Abdul Rahman. He purchased the said property by virtue of a registered sale deed dated 31.1.1968 vide document No.269/1968 on the file of SRO, Vellore. Patta was also standing in the name of Abdul Rahman in Patta No.391.

(b) The said Abdul Rahman executed a General Power of Attorney deed dated 7.3.1983 vide document No.38/1983 on the file of SRO, Vellore in favour of one R.Paramasiva Mudaliar. The said power of attorney was not acted upon during the life time of Abdul Rahman. The said Abdul Rahman died intestate on 7.10.1999 and his wife died on 4.3.2008, leaving their three daughters Shamshad Begum, Mumtaz and Habeebunisha. One of his daughters viz., Mumtaz died intestate on 14.10.2014 leaving her husband Asghar Ali and two daughters viz., Habeeba and Fathima Banu and one son by name Mohamed Rafeeq. Thus, the petitioners 3 to 8 are the legal heirs of the deceased Abdul Rahman to inherit the aforementioned properties under the Mohammedan Law and they have been jointly in possession and enjoyment of the same without any interruption.

(c) While so, the petitioners 3 to 8 wanted to sell the properties to meet out the medical expenses and other family expenses. Accordingly, they entered into an agreement of sale with the petitioners 1 and 2 for a sale consideration of Rs.42,90,000/- and after receipt of the entire sale consideration, they have presented the sale deed for registration before the second respondent. But, the second respondent refused to receive the sale deed for registration stating that the said properties were already sold out under four different sale deeds vide document Nos.3391, 3392, 3393 and 3994/2005 by the power of attorney holder R.Paramasivan Mudaliar in favour of the third parties.

(d) The said deed of power of attorney was not acted upon during the life time of Abdul Rahman and the same got automatically terminated upon the demise of Abdul Rahman on 7.10.1999. The said four sale deeds are fraudulent documents, fabricated for the purpose of unlawfully grabbing the properties from the lawful owners. In this regard, the petitioners sent a

representation dated 6.8.2015 to the second respondent to accept the sale deed dated 6.8.2015 and register the same. Since the said representation was not considered so far, the petitioners have come up with the present writ petition for the relief set out earlier.

3. Learned counsel appearing for the petitioners submitted that since the said Abdul Rahman died as early as on 7.10.1999, the General Power of Attorney executed by him in favour of one R.Paramasiva Mudaliar in the year 1983 got terminated automatically in the year 1983 itself. Therefore, all the four sale deeds executed by the said R.Paramasiva Mudaliar in the year 2005, i.e., after the death of Abdul Rahman, are fraudulent documents. Under such circumstances, the second respondent ought to have registered the sale deed dated 6.8.2015 which was presented by the legal heirs of original owner viz., Abdul Rahman. But, the second respondent refused to accept the same. Hence, the present petition. In this regard, the learned counsel appearing for the petitioners relied upon the judgment of this Court reported in 2015-5-L.W.173 - M.Singaravelu v. The District Registrar, Karur & others and submitted that the registering authority is bound to act only in accordance with law. Thus, he prays for positive direction to the second respondent to accept and register the sale deed dated 6.8.2015.

4. I have heard the learned Government Advocate also.

5. Keeping the submissions made on either side, I have carefully gone through the entire materials available on record and I find that as on date, there are four sale deeds vide document Nos. 3391, 3392, 3393 and 3994/2005. According to the learned counsel appearing for the petitioners, the said four sale deeds were registered after the demise of the original owner Abdul Rahman, who had executed the power of attorney. Therefore, all the four documents are fraudulent documents. In such circumstances, I am of the opinion that since already four sale deeds were registered in respect of the said properties, it would be appropriate to direct the second respondent to receive the sale deed dated 6.8.2015 presented by the petitioners and conduct an enquiry with regard to the registration of the said documents by affording an opportunity of personal hearing to the petitioners as well as the power agent R.Paramasiva Mudaliar and take/pass appropriate action / orders on merits and in accordance with law. After enquiry, if the second respondent comes to the conclusion that there is a disputed question of law, he can always direct the parties to approach the civil Court. The entire exercise shall be carried out by the second

respondent within a period of six weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sbi

To

1.The Inspector General of
Registration,
Santhome, Chennai.

2.The Joint Sub Registrar I,
(District Registrar Cadre),
District Registrar's Office,
Vellore.

+1cc to Mr.G. Raja, Advocate, S.R.No.8289

+1cc to the Government Pleader, S.R.No.8201

VD(CO)
EU(12/02/2016)

W.P.No.26795 of 2015

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