

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.1988 of 2016

Sarala

... Petitioner

Vs.

The Sub Registrar
Madhavaram,
Chennai.

.. Respondent

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the respondent relating to the impugned order dated 30.12.2015 bearing No.1 of 2015 and quash the same and consequently direct the respondent to register the Settlement Deed presented by the petitioner dated 28.12.2015.

For Petitioner : Mr.D.Bharatha Chakravarthy
for M/s.Sai Bharath and Ilan
For Respondent : Mr.S.Pattabiraman, Govt.
Advocate

ORDER

The petitioner has come forward with this present Writ Petition challenging the impugned order passed by the respondent dated 30.12.2015 and for a consequential direction to the respondent to register the Settlement Deed presented by the petitioner dated 28.12.2015.

2. Heard Mr.D.Bharatha Chakravarthy, learned counsel appearing for petitioner and Mr.S.Pattabiraman, learned Government Advocate, appearing for the respondent.

3. In the petition, it has been stated that the petitioner is possessing a share in the property measuring 2238 sq.ft. comprised in Survey No.1471, situate at D.No.20/22, Villivakkam Road, Lakshmipuram, Chennai 600 099.

4. Originally, the above mentioned property was purchased by one Chinnagovinda Naicker from one Venkatasamy Naicker by a registered Sale Deed dated 6.1.1906. The said Chinnagovinda Naicker died intestate leaving behind one Thoplan Naicker, his son, who was in possession and enjoyment of the said property till his life time. The said Thoplan Naicker died intestate

leaving behind his son Ganesa Naicker and his grand son G. Subramanian as surviving coparceners. The petitioner is daughter in law of said Ganesa Naicker and wife of said G.Subramanian. The petitioner's father in law and her husband orally partitioned the properties amongst themselves and in pursuant to which, the above said properties came to the share of her husband Subramanian. While so, her husband Subramanian died on 21.7.2013, leaving behind the petitioner and her minor son Dillikumar and minor daughters Rajeswari and Datchayani and his mother Salsa as his Legal heirs. Therefore, the petitioner is having 1/5th share in the above property.

5. As the petitioner intended to settle her 1/5th share in the property in favour of her minor son, she presented a settlement deed with adequate registration fee on 28.12.2015. But on 30.12.2015, without registering the same, the respondent returned the same by passing the impugned order, stating that the original of the document bearing No.21 of 1906 and the death certificate and legal heir certificate of late Thoplan Naicker were not submitted for perusal. Aggrieved against the impugned order passed by the respondent, the petitioner has filed the present writ petition.

6. When the matter is taken up for consideration, learned counsel for the petitioner submitted that the original of the document bearing No.21 of 1906 was under the possession of her father in law and brothers of Thoplan Naicker and since the terms between the petitioner and them are not good after the death of her husband, they would not provide her the original of the said document so as to produce before the respondent. He further submitted that the petitioner has produced the certified copy of the said document along with other relevant documents. Hence he sought for a direction.

7. In view of the submissions made by the learned counsel for petitioner, this Court directs the petitioner to produce the certified copy of the document bearing No.21 of 1906 along with all necessary documents before the respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of such documents, the respondent is directed to issue notice to the petitioner as well as to other necessary parties, if any, and conduct enquiry by giving an opportunity of personal hearing to the petitioner as well as to the interested parties and pass appropriate orders with regard to the registration of the settlement deed to be executed by the petitioner in favour of her minor son on merits and in accordance with law within a period of four weeks thereafter.

8. With the above direction, this Writ petition is disposed of. No costs.

msr

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

To

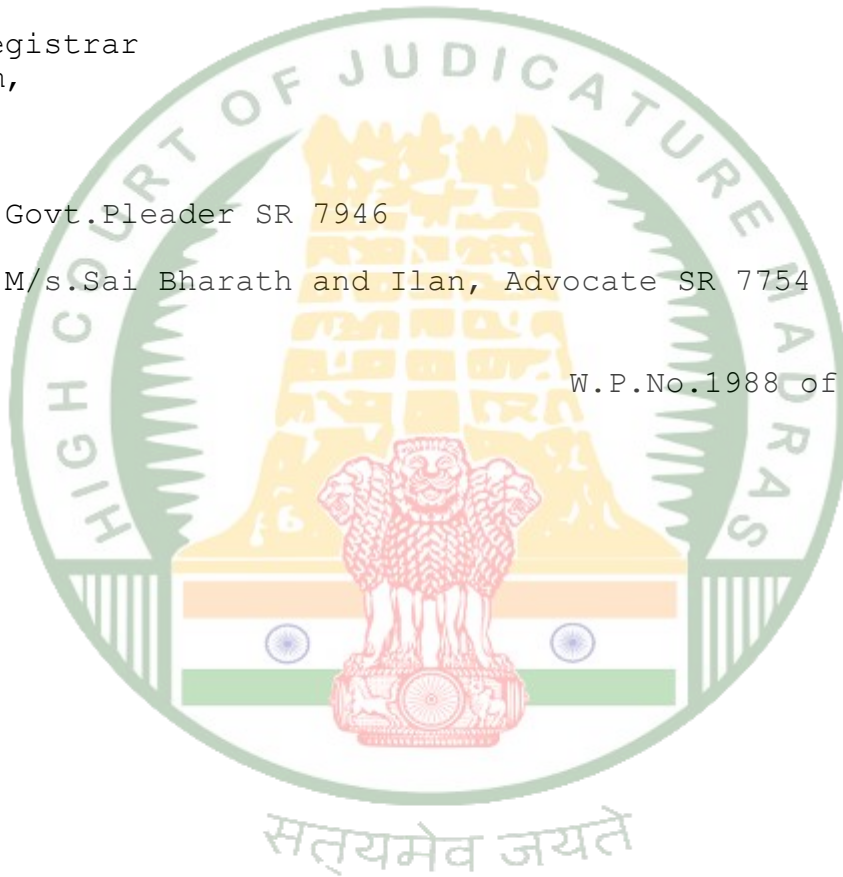
The Sub Registrar
Madhavaram,
Chennai.

+ 1 cc to Govt. Pleader SR 7946

+ 1 cc to M/s. Sai Bharath and Ilan, Advocate SR 7754

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