

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2016

CORAM :

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.41237 of 2002

1.Dhanapal
2.Angammal

... Petitioners

Vs

1.The District Collector,
Trichirapalli District.

2.The Revenue Divisional Officer,
Trichirapalli District.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified mandamus, to call for the records in No.O.Mu/5707/2002 G4 and dated 11.10.2002 on the file of the 2nd respondent and quash the same as illegal and incompetent and to further direct the respondents to register the documents dated 10.04.1989 and 27.06.1990 produced by the petitioners.

For Petitioners : Mr.V.Raghavachari

For Respondents : Mr.S.Pattabiraman
Government Advocate

O R D E R

The petitioners would state that Sale Deeds, dated 10.04.1989 and 27.06.1990 were executed in their favour in respect of the lands in T.S.No.591, Thamalavarupayam Village. The petitioners have presented the said documents for registration on 28.07.2002 and on receipt of the same, the second respondent vide communication dated 10.08.2002 called upon them to explain the reasons for delay. The petitioners in the form of representation, dated 29.08.2002 have stated among other things they are not well versed with worldly knowledge and that the person who executed the documents/Executant is also no more and therefore, they were unable to present the documents on time and prays for registration by levying small amount of stamp duty. However, the second respondent, on going through the documents found that the stamp papers were

purchased on 24.09.1989, 09.11.1988, 08.05.1989 and 21.05.1990 respectively and sale deeds came to be executed on 10.04.1989 and 27.06.1990 respectively and since time for registration is barred under Section 31(3)(a) of the Indian Stamp Act, rejected the request made by the petitioners and challenging the legality of the order passed by the second respondent, the petitioners have come up with this writ petition.

2. Mr.V.Raghavachari, learned counsel appearing for the petitioners invited the attention of this Court to the judgment rendered by the Full Bench of this Court reported in 1955 (68) L.W. 542 [In - Re in the matter of Validation of a Document dated 14.06.1947 executed by Kuppuswami Chettiar], and contended that once document is produced before the concerned authority or comes to him in the performance of his functions, then he is not only empowered, but is under a duty to impound the document, if it appears to him that it has not been duly stamped and in the light of the same, the second respondent ought to have entertained the documents and impounded the same, collected deficit stamp duty and ought to have registered the documents. Since the same has not been done, he prays for quashment of the impugned order.

3. Per contra, the learned Government Advocate has invited the attention of this Court to the counter affidavit of the second respondent and would submit that since reasons have not been assigned by the petitioners for enormous delay in presenting the document, it is clearly barred under Section 32(3)(A) of the Indian Stamp Act and therefore, the request made by the petitioners have been rightly rejected and would further contend that even according to the petitioners, the Executant, who executed the documents is no more and therefore, no positive orders could be passed in favour of the petitioners.

4. This Court has carefully considered the rival submissions made on either side and also perused the materials placed before it.

5. The Sale Deeds were executed in favour of the petitioners on 10.04.1989 and 27.06.1990 respectively and they were presented for registration only during August 2002. When the petitioners were called upon to offer their explanation as to the belated presentation of the documents, they represented that the Executant is no more and they were not well versed about the procedural aspect. However, the fact remains that the Executant viz., Packirisamy S/o.Marudhanayagam is no more and in the light of the said development also, the documents sought to be registered by the petitioners cannot be done.

6. This Court taking into consideration the above facts and circumstances of the case, this Court directs the

petitioners to re-present the Sale Deeds before the second respondent and also ensure the presence of the legal heirs of the deceased Packirisamy, within a period of four weeks from the date of receipt of a copy of this order and the second respondent, on being satisfied with the authenticity of the legal heirs of the deceased Packirisamy and also in the light of the judgment of the Full Bench of this Court reported in 1955 (68) L.W. 542, shall pass appropriate orders in accordance with law, within a period of eight weeks thereafter and communicate the decision taken to the petitioner.

The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Collector,
Trichirapalli District.
- 2.The Revenue Divisional Officer,
Trichirapalli District.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.48856
+1cc to the Government Pleader, S.R.No.49158

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PUR(CO)
CA(20/09/2016)

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