

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2016

CORAM:

THE HON 'BLE MR. JUSTICE B.RAJENDRAN

Writ Petition No.34341 of 2016
and W.M.P.No.29606 of 2016

1. R.Manikandan
2. V.Govindan
3. G.Andal

... Petitioners

Versus

1. The Inspector General of Registration,
100 Santhome High Road,
Chennai - 600 028
2. The Joint Sub-Registrar No.1,
Kallakurichi S.R.O.,
Kallakurichi, Villupuram District

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records relating to the impugned order, dated 29.08.2016, made in Check Slip No.1/2016 issued by the second respondent, quash the same and consequently, to direct the second respondent to register and release the sale deed, dated 30.06.2016, executed by the petitioner in the names of the petitioners 2 and 3 in respect of the property measuring 14 cents and 38 cents bearing Natham S.Nos.91/3D and 92/1 respectively, Emaper Village, Kallakurichi Taluk, Villupuram District.

For Petitioners : Mr.N.Manokaran

For Respondents : Mr.A.Kumar, Spl.G.P.,

O R D E R

Mr.A.Kumar, learned Special Government Pleader, accepts notice for the respondents. By consent of the learned counsel for both sides, the writ petition is taken up for final disposal.

2. This writ petition has been filed by the petitioners praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order, dated 29.08.2016, made in Check Slip No.1/2016 issued by the second respondent, quash the same and consequently to direct the

second respondent to register and release the sale deed, dated 30.06.2016, executed by the petitioner in the names of the petitioners 2 and 3 in respect of the property measuring 14 cents and 38 cents bearing Natham S.Nos.91/3D and 92/1 respectively, Emaper Village, Kallakurichi Taluk, Villupuram District.

3. Heard the learned counsel appearing for both sides.

4. According to the petitioners, the first petitioner acquired the property in question, by virtue of a registered settlement deed, dated 27.05.1985. The said settlement deed was questioned in an Original Suit and it was unilaterally cancelled by the Executor. On 25.06.1990, a will came to be executed by the father of the first petitioner. In the Original Suit filed between the parties, the settlement deed executed in favour of the first petitioner was upheld, thereby the first petitioner's right over the property was confirmed. Further, the alleged execution of the Will also became inoperative. Subsequently, the matter was challenged by way of a First Appeal the said appeal came to be dismissed, way back in the year 2011. Now, the first petitioner has sold the property-in-question to petitioners 2 and 3, by way of sale deed, dated 30.06.2016.

5. It is the grievance of the petitioners that when the property was sought to be registered by the first petitioner in favour of petitioners 2 and 3, the second respondent has kept the document pending for two months and thereafter, without registering, has returned the same stating some technical reasons. The further grievance of the petitioners is that, without even giving a notice to the petitioners, the respondents have rejected the document.

6. The learned counsel for the petitioners submitted that before passing the impugned order, the respondents ought to have given notice to the petitioners and earlier, if an opportunity had been given, the petitioners would have explained that pursuant to the Civil Court's decree, the first petitioner has got right over the property. Therefore, the learned counsel, submitted that, if an opportunity was given, the petitioners can very well explain / satisfy the respondents that the first petitioner is the absolute owner of the property and he can sell the said property to petitioners 2 and 3.

7. The learned Special Government Pleader appearing for the respondents would contend that, inspite of earnest efforts, he could not able to produce the original document-in-question. But, the learned counsel for the petitioners, would submit that, all necessary ingredients that has to be taken care of before registering the document have been discussed in the judgment of the Civil Court.

8. This court has carefully considered the submissions made by the learned counsel for both sides and perused the materials available on record.

9. In the light of the above facts, this Court is of the view that the respondents should be directed to give an opportunity of personal hearing to the petitioners to express their grievances, if any.

10. Therefore, the respondents are directed to give an opportunity of personal hearing to the petitioners and on appearance before the respondents, the first petitioner is at liberty to produce necessary documents and give explanation, for his legal right, for the document to be registered in favour of petitioners 2 and 3. On such production of the documents, the second respondent shall consider the same, on merits and in accordance with law and pass appropriate orders, as expeditiously as possible.

11. In the result, this writ petition is disposed of. No costs. Consequently, the connected WMP is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

srk

To

1. The Inspector General of Registration,
100 Santhome High Road,
Chennai - 600 028

2. The Joint Sub-Registrar No.1,
Kallakurichi S.R.O.,
Kallakurichi, Villupuram District

1 cc to M/s. N. Manokaran, Advocate, Sr. 56220
1 cc to Government Pleader, Sr. 56451

W.P.No.34341 of 2016
& W.M.P.No.29606 of 2016

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