

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 44116 of 2016  
and WMP No.37930 of 2016

Sumathi @ Muniammalle

.. Petitioner

Vs.

1 Government of Puducherry,  
Department of Registration,  
Rep. By its Secretary,  
Government of Puducherry,  
Puducherry.

2 Sub Registrar,  
District Registration Office,  
Puducherry.

3 J.Jayamarie

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 2nd Respondent to register the Sale Deed dated 16.11.2016 presented by the petitioner after verification of the Non-traceable certificate for Lost of the 3rd Respondent's original Will dated 26.04.1999 in document No.61/1999 in the place of lost of her Original will and Certified Photocopy of the Legal Heirs Judgment and Decree dated 14.06.2010 in O.S. No.87 of 2010 on the file of the Hon'ble I Additional District Munsif, Puducherry by considering the representation dated 21.11.2016 submitted to the 2nd respondent and pass appropriate orders for registration of the Document as provided under sec. 71 of the Registration Act, 1908.

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For Petitioner : Mr.R.Thiagarajan

For RR 1 & 2 : Mr. C.T.Ramesh  
Additional Government  
Pleader (Pondy)

O R D E R

Heard Mr.R.Thiagarajan, learned counsel appearing for the petitioner and Mr.C.T.Ramesh, learned Additional Government Pleader (Pondy) appearing on behalf of the respondents.

2. By consent, the writ petition itself is taken up for final hearing, in view of the limited prayer.

3. The petitioner has come up with the present writ petition praying to direct the second respondent to consider the representation of the petitioner dated 21.11.2016 submitted to the 2<sup>nd</sup> respondent and to issue a register Sale Deed dated 16.11.2016 to the petitioner after verification of the Non-traceable certificate for Lost of the 3<sup>rd</sup> Respondent's original Will dated 26.04.1999 in document No.61/1999 in the place of lost of her Original will and Certified Photocopy of the Legal Heirs Judgment and Decree dated 14.06.2010 in O.S. No.87 of 2010 on the file of the Hon'ble I Additional District Munsif, Puducherry.

4. Learned counsel for the petitioner submitted that the petitioner purchased the subject property from the 3<sup>rd</sup> respondent by a sale deed dated 16.11.2016 and paid a consideration of Rs.45,50,000/- The subject property measuring an extent of 2400 sq. ft. in Plots No.186 and 187, originally belonged to Sarashabushani. Who acquired the same by a Deed of sale dated 05.02.1982. After demise of Sarashabushani on 11.04.2009 at Puducherry, her son Jayasekaran had succeeded to the property by virtue of the Will. Since a cloud was sought to be created in respect of his title, Jayasekaran was constrained to file a civil suit in O.S.No.87 of 2010 on the file of the learned I Additional District Munsif, Puducherry, praying for a declaration, to declare that he is the sole legal herir of the deceased Sarashabushani, and entitled to succeed and inherit her rights and interests. By judgment dated 14.6.2010, the learned First Additional District Munsif, Puducherry, decree the suit. According to the petitioner by virtue of the above said Will and decree, hereby enjoying the subject property as absolute owner and he bequeathed the said property in favour of his wife, the 3<sup>rd</sup> respondent herein. It is case of the petitioner that the 3<sup>rd</sup> respondent had sold subject property to the petitioner under valid consideration by sale deed dated 16.11.2016. The grievance of the petitioner is that when the sale deed was tendered for registration by order dated 16.11.2016. The second respondent however refused to register

the document. Therefore the petitioner has come forward with the present Writ Petition seeking for a direction to the second respondent.

5. The learned counsel for the petitioner would submit that after impugned refusal order dated 16.11.2016 the petitioner has made representation on 21.11.2016 along with copies of judgment and decree dated 14.06.2010 passed in OS. No.87 of 2010 by the First Additional District Munsif, Puducherry and having received the representation the second respondent has not passed any orders.

6. Learned Additional Government Pleader submitted that if the said representation dated 21.11.2016 made by the petitioner is in order, the same would be considered by the second respondent, in accordance with law.

7. Considering the facts and circumstances of the case, without expressing any opinion on merits, the second respondent is directed to consider the representation of the petitioner dated 21.11.2016, if it is otherwise in order, in accordance with law, by giving a reasonable opportunity to the parties concerned and pass appropriate orders as expeditiously as possible, not later than four weeks from the date of receipt of a copy of this order.

8. The Writ Petition is disposed of, on the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

- 1 The Secretary,  
Government of Puducherry,  
Department of Registration,  
Government of Puducherry,  
Puducherry.

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2 Sub Registrar,  
District Registration Office,  
Puducherry.

+1cc to Mr.Thiagarajan, Advocate Sr.74980  
+1cc to the Government Pleader Sr.76441

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srg 03/01/2017



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