

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.5693 of 2016

1.S.Renukadevi
2.S.Kumaravel
3.S.Sounderrajan
4.J.Siyamala Devi ... Petitioners

vs.

1.The Inspector General of
Registration,
Santhome High Road,
Mylapore, Chennai-4.

2.The District Registrar,
Chengalpattu Registration District,
Chengalpattu.

3.The Sub Registrar,
Thiruporur,
Thiruporur Taluk,
Kancheepuram District.

4.The Executive Officer,
Nemmili Arulmighu Alavandar
Naicker Trust,
Mammallapuram,
Thirukalukundram Taluk,
Kancheepuram District. ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus, directing the third respondent to register the sale agreement of the petitioners entered into with one V.Gnanasoundari dated 11.1.2016 in respect of the agricultural land property of extent of acres 10.30 cents comprised in Old Survey No.168, as per joint patta No.467, New S.No.168/3E 1A1A1C2A, situated at Pattipulam Village, Thiruporur Taluk, Kancheepuram District, lying within the Sub Registration District of Thiruporur and Registration District, Chengalpattu, by considering the representation of the petitioners dated 11.1.2016.

For Petitioners : Mr.A.Ramalingam

For Respondents : Mr.P.Sanjay Gandhi,
Addl. Govt. Pleader,
for R.1 to R.3
Mr.V.Raghavachari,
for R.4

ORDER

The petitioners have come up with the present writ petition for a mandamus, directing the third respondent to register their sale agreement entered into with one V.Gnanasoundari dated 11.1.2016 in respect of the agricultural land measuring to an extent of 10 acres and 30 cents comprised in Old Survey No.168, as per joint patta No.467, New S.No.168/3E 1A1A1C2A, situated at Pattipulam Village, Thiruporur Taluk, Kancheepuram District, lying within the Sub Registration District of Thiruporur and Registration District, Chengalpattu, by considering their representation dated 11.1.2016.

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

(a) The petitioners are the absolute and exclusive owners of the agricultural land measuring to an extent of 10 acres and 30 cents comprised in Old Survey No.168, as per joint patta No.467, New S.No.168/3E 1A1A1C2A, situated at Pattipulam Village, Thiruporur Taluk, Kancheepuram District, having acquired the same by way of registered settlement deed executed by one Kamakshi Ammal, wife of Selvam in favour of the first petitioner. Originally, the said property is the ancestral property of the petitioners and they are in joint possession and enjoyment of the same. सत्यमेव जयते

(b) The petitioners being the joint owners, have entered into a sale agreement dated 11.1.2016 with one Gnanasoundari for a sale consideration of Rs.6,50,00,000/-. Both the vendors and the proposed purchaser executed the said sale agreement by putting their respective signatures and presented it before the third respondent for registering the same along with necessary fees. But, without giving any proper reason, the third respondent refused to receive the said document for registration. Even after repeated request and demand, the third respondent refused to receive the said document.

(c) Finally, the third respondent gave a reply by way of a Check Slip stating that the property in S.No.168 belongs to the fourth respondent trust and on 30.1.2015, he received an objection from the fourth respondent as if some appeal cases are pending before this Court. Thus, the petitioners were directed to produce No objection Certificate for registering the sale agreement. Though the petitioners have explained their title through the original documents and patta in respect of the said property, the third respondent did not consider the same and simply replied that the said property belongs to the fourth respondents. The petitioners have also explained that in the recent patta No.467, under the heading of details of owners, besides Sl.No.1 indicates the name of the fourth respondent, the names of the first petitioner and her mother are also shown as Sl.Nos.16 and 17 respectively along with the names of the other joints owners and hence, their property is totally different from the property of the fourth respondent. In spite of the same, the third respondent has not considered the claim of the petitioners. Hence, the petitioners have come up with the present writ petition for the relief set out earlier.

3. The fourth respondent has filed a counter affidavit stating that the fourth respondent trust was formed in the year 1914 by one Alavandar. The said Alavandar executed a Will on 22.6.1914, bequeathing the total extent of properties in Old Survey No.168 in the name of the trust by name Nemmeli Arulmigu Alavandar Nayakar Charity. He passed away on 8.8.1914 and from the said date onwards, the entire extent of land viz., 308.45 acres has been in possession and enjoyment of the fourth respondent. The claim of the petitioners that they are the owners of the land measuring to an extent of 10 acres and 30 cents in S.No.168/3E/1A/1A/1C/2A situated at Pattipulam Village, Thiruporur Taluk, Kancheepuram District is denied by the fourth respondent. A suit in O.S.No.76 of 1992 was filed by the predecessors - in - interest of the petitioners seeking partition of the property situated in S.No.168/3E/1A/1A/1C and Survey No.168/1. The fourth respondent has also filed a suit in O.S.No.107 of 1994 seeking declaration of title over the property situated in Survey No.168/1 and S.No.168/3E/1A/1A/1C/2A and S.No.168/3E/1A /1A/2B. A common judgment was passed in both the suits, against which civil appeals are pending before this Court. The petitioners have made a bogus claim over the land situated at S.No.168/3E/1A/1A/1C/2A. Thus, the fourth respondent sought for the dismissal of the writ petition.

4. Learned counsel appearing for the petitioners mainly submitted that without conducting any enquiry, merely based on the objection given by the fourth respondent, the third respondent cannot simply refuse to register the document submitted by the petitioners. Thus, he sought for a direction to the third respondent to conduct an enquiry on the sale agreement submitted by the petitioners.

5. I have heard the learned Additional Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the fourth respondent also.

6. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits and demerits of the claim made by the petitioners, this Court directs the third respondent to conduct an enquiry on the sale agreement dated 11.1.2016 submitted by the petitioners, by affording an opportunity of personal hearing to the petitioners as well as to the fourth respondent and necessary parties, if any, and pass appropriate orders, on merits and in accordance with law, with regard to the registration of the said document. The entire exercise shall be completed 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 (CS-III)

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते

To

1. The Inspector General of
Registration,
Santhome High Road,
Mylapore, Chennai-4.

2. The District Registrar,
Chengalpattu Registration District,
Chengalpattu.

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3.The Sub Registrar,
Thiruporur,
Thiruporur Taluk,
Kancheepuram District.

1 CC to Mr.A.Ramalingam, Advocate SR.No.23446
+1cc to Mr.V.Raghavachari, Advocate Sr.23489
1 CC to the Government Pleader, SR.No.23478

W.P.No.5693 of 2016

bvr (CO)
srg (15.04.2016)



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