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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:03.08.2016

CORAM

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

Writ Petition (MD). No.11455 of 2015

Saraswathi

... Petitioner

Vs.

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

2.The District Registrar,
Registration Department
Dindigul.

3.The Sub Registrar Joint II,
Sub Registrar Office,
Dindigul-1.

... Respondents

Prayer:-Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents to return the pending document No.269/2014 on the file of the 3rd Respondent by assigning regular serial number to the petitioner.

For Petitioner	:Mr.R.Subramanian
For Respondents	:Mr.K.Mahesh Raja Govt. Advocate

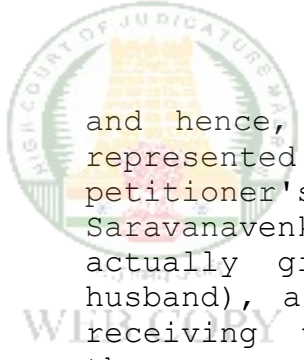
O R D E R

Heard both sides.

2.By consent, the main writ petition itself is taken up for final disposal.

3. According to the petitioner, the third respondent/Sub Registrar Joint II, Sub Registrar Office, Dindigul has no authority to keep the settlement deed as pending without passing any orders. Further, it is the stand of the petitioner that the third respondent should have seen that there is no dispute regarding the relationship between the petitioner and her son. As a matter of fact, the authorities have no jurisdiction to keep the document as pending one, without any authority of Law.

4. The Learned Counsel for the petitioner projects an argument that the claim of the third respondent is that when the petitioner's son viz., Saravanavenkatatraman was aged 16 years, an Adoption Deed was executed giving her son in adoption to her husband's brother Lakshmanan



and hence, he was not considered as her son. Furthermore, it is represented on behalf of the petitioner that soon after the adoption, the petitioner's husband's brother viz., Lakshmanan died and Saravanavenkatatraman was brought up by her. Further, her son was not actually given and taken as adoption by them (petitioner and her husband), as adopted parents. Moreover, the physical act of giving and receiving was not performed. Also, he is the only son and male heir to them.

5. The core stand taken on behalf of the petitioner is that the essential inheritance of the adoption had not taken place and being a natural mother, she had executed the present settlement deed and when there is no dispute about their relationship, it is pointed out on behalf of the petitioner that it is not for the authorities under the Registration Act to question the relationship and keep the document pending without any authority of Law.

6. At this stage, the Learned Counsel for the respondents 1 to 3 submits that the Registering Authority is a statutory authority to register the document in a proper manner and that in fact, the petitioner is settling the property by availing stamp duty concession intended for settlement deed to which she is not entitled to claim. Moreover, the petitioner herself had admitted that her husband had executed an adoption deed and the same was acted upon it. In fact, the said adoption deed was not cancelled and it is still valid. Therefore, it is the plea of the respondents that the petitioner cannot settle the properties in favour of Saravanvenkatatraman. But it can be executed only by paying regular stamp duty applicable for sale and furthermore, the petitioner is endeavouring to evade the payment of stamp duty applicable for sale.

7. The pith and substance of the stand taken on behalf of the respondents 1 to 3 is that the petitioner, in the instant case, is not eligible to claim the concession of stamp duty 'as settlement deed'. But, she has to pay the regular stamp duty applicable for the sale deed.

8. This Court has heard the Learned Counsel for the Petitioner and the Learned Government Advocate for the respondents and noticed through the contentions.

9. On a careful consideration of respective contentions and taking note of the divergent stand taken by the respective parties, at this stage, this Court, without expressing any opinion on the merits and contents of the representation of the petitioner, dated 20.05.2015, simpliciter, directs the third respondent/ Sub Registrar Joint-II, Sub Registrar Office, Dindigul-1 to look into the representation of the petitioner dated 20.05.2015, with a free, open, unbiased mind and to dispose of the said representation by passing a reasoned, speaking order on merits (Of-course, after providing necessary opportunity to the petitioner and others concerned, if any, by following the Principles of Natural Justice), within a period of six weeks from the date of receipt of copy of this order. It is open to the petitioner to raise all factual and legal pleas before the third respondent and in case, the third respondent is in requirement of any relevant document/record, the same shall be submitted by the petitioner before the third respondent. In such an event, the third respondent/Sub Registrar Joint-II, Sub Registrar



Office, Dindigul-1 is take into account of the same and to pass necessary orders in the subject matter in issue, within the time determined by this Court.

10. With the aforesaid observation(s) and direction(s), the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

VS

To

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

2.The District Registrar, Registration Department
Dindigul.

3.The Sub Registrar Joint II, Sub Registrar Office,
Dindigul-1.

+1CC to Mr.R.Subramanian, Advocate Sr.No.41791

+1CC to Spl.Government Pleader Sr.No.41865

GJM/KBM/10.8.16-3p-6c

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