



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 29.11.2016

Coram

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THE HON'BLE MR.JUSTICE **V.BHARATHIDASAN**

Writ Petition (MD)No.21627 of 2016
and
W.M.P. (MD) .No.15446 & 15447 of 2016

BALAKRISHNAN

. . . Petitioner

-Vs-

1 THE DEPUTY INSPECTOR GENERAL
OF REGISTRATION,
TIRUNELVELI DISTRICT
TIRUNELVELI.

2 THE DISTRICT REGISTRAR,
REGISTRATION DEPARTMENT,
PALAYAMKOTTAI.
TIRUNELVELI -2.

3 THE SUB REGISTRAR
PARKITMA NAGARAM SUB REGISTRY,
PALAYAMKOTTAI TALUK,
TIRUNELVELI DISTRICT.

. . . Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records pursuant to the order made by the 3rd respondent in his proceedings in Na.Ka.97/16 dated 19.09.2016 and quash the same as illegal and consequently directing the respondents to return the unregistered partition release deed 08.01.2016 kept as a pending document in P.No.1/2016 on the file of the 3rd respondent to the petitioner.

For petitioner
For respondents

:Mr. S.R. Anbarasu
:Mr. R. Anandharaj,
Government Advocate

ORDER

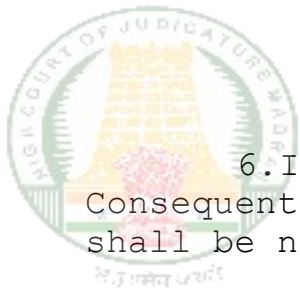


2. According to the petitioner, he executed a partition release deed in favour of his brother one Shanmugavel and presented the same before the third respondent/Sub-Registrar, Parkitma Nagaram Sub-Registry, Palayamkottai Taluk, Tirunelveli District for registration. Subsequently, the petitioner changed his mind and hence, he requested the third respondent to return the document without registering the same. But, the third respondent, passed the impugned order, by referring Standing Order No.244 of the Registration Manual, refusing to return the same on the ground that for returning a document, both the executant and the beneficiary should appear and make an application. Challenging the same, the present writ petition has been filed.

3. A perusal of the impugned order, it is seen that, the petitioner only submitted a release deed for registration and subsequently, he asked for return of the document without registering the same. The third respondent rejected the same by following the Standing Order No.244 of the Registration Manual.

4. A cursory reading of the Standing Order clearly shows that the if the presentant of such a document applied for the return of the document not registered, the registering officer shall comply with his request, provided that any person entitled to present the document for registration has applied for the registration of the document, the Registrar should proceed with registration. If any of the parties who are entitled to present the document for registration applies to the registering officer, that the registration of the document should be proceeded with, then, the Registering Officer shall not comply with the request of the presentant of return the document without registration but shall proceed with the registration of the document as laid down in the relevant sections of the Registration Act, 1908, and the rules framed thereunder. From the above it is clear that if more than one person is entitled to present the document, then the document cannot be returned at the request of any one of the persons. In the present case, the petitioner only presented the document for registration and nobody else have any interest in it and it is not a case of payment of insufficient stamp duty or perjury. In the above circumstances, even as per the Standing Order 244 of the Registration Manual, the petitioner is entitled to get the document returned. Hence, the impugned order passed by the third respondent is against the Standing Order No.244 of the Registration Manual. Hence, the same is liable to be set aside.

5. Accordingly, the impugned order, dated 19.09.2016, passed by the third respondent/ Sub-Registrar, Parkitma Nagaram Sub-Registry, Palayamkottai Taluk, Tirunelveli District is set aside and the third respondent is directed to return the document, presented by the petitioner, forthwith to the petitioner.



6. In the result, the writ petition is allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Sd/-
Assistant Registrar(C)

/True Copy/

Sub Assistant Registrar

To

- 1 THE DEPUTY INSPECTOR GENERAL
OF REGISTRATION,
TIRUNELVELI DISTRICT
- 2 THE DISTRICT REGISTRAR,
REGISTRATION DEPARTMENT,
PALAYAMKOTTAI.
TIRUNELVELI -2.
- 3 THE SUB REGISTRAR
PARKITMA NAGARAM SUB REGISTRY,
PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

+1 CC TO M/S.S.R.ANBARASU, Advocate Sr.No.74119
+1 cc to Special Government Pleader SR.No.74006

W.P. (md) .No.21627 of 2016
29.11.2016

SMA/CM-MSA/13.02.2017:3P/6C