



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.10.2016

CORAM :

THE HONOURABLE MR. JUSTICE V. BHARATHIDASANWrit Petition (MD) No.457 of 2016

K.Siththammal

... Petitioner

Vs.

1.The District Registrar,
Virudhunagar,
Virudhunagar District.

2.The Sub Registrar,
Veera Chozan,
Virudhunagar District.

3.Indunesan,
The Sub Registrar,
Veera Chozan,
Virudhunagar District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the 2nd respondent to complete the registration of the sale deed dated 23.10.2015 in respect of the properties in Survey No.256/A to an extent of 40 and in Survey No.256/4B to an extent of 22 cents and Survey No.289/6 to an extent of 1 acre situated in Veera Chozhan Village, Virudhunagar District within the time stipulated by this Court.

For Petitioner	: Mr.N.Sathish Babu
For Respondents	: Mr.V.Muruganandam, Additional Government Pleader.

ORDER

According to the petitioner, the petitioner intended to purchase the property in Survey No.256/A to an extent of 40 cents, in Survey No.256/4B to an extent of 22 cents and Survey No.289/6 to an extent of 1 acre situated in Veera Chozhan Village, Virudhunagar District from one R.Ramu, S.Jayakodi and R.Gunasekaran. After execution of sale deed, the documents were produced before the second respondent for registration. When the entire registration process was over, the second respondent refused to register the document. At that time, the third respondent who is the Sub Registrar demanded bribe for a sum of Rs.5,000/- to complete the registration. In the above circumstances, the petitioner approached the first respondent and lodged a complaint before the first respondent wherein enquiry is pending. Thereafter, on 14.12.2015, the second respondent returned the sale deed to the petitioner without passing any order. In the



above circumstances, the petitioner filed the present writ petition.

2.The second respondent has filed a counter affidavit stating that after perusing the documents, he came to know some of the details were not annexed by the petitioner and therefore, the document was kept pending in Document No.P33/2015, dated 14.12.2015. According to the second respondent, the vendor of the property got title over the same by means of registered partition deed dated 04.08.1999 between late Rajamani @ Rajamanickam and Ramu and Gunasekaran wherein Ramu has signed as guardian of his minor son Manikandan and Gunasekaran signed for his minor son Murugan. However, in the document, Ramu and Gunasekaran alone shown as vendors. Even though the minors were become major, they were not arrayed as vendors in the sale deed. Therefore, the second respondent informed the petitioner to rectify the said mistake. Even though an opportunity was given to the petitioner to rectify the said mistake, he has not taken any steps to rectify the same. Hence, the second respondent refused to register the sale deed and return the same to the petitioner.

3.Learned counsel appearing for the petitioner would submit that as per Rule of the the second respondent has no power or authority to refuse to register and go into the title of the property. He would further submit that without passing any order, the second respondent returned the document which caused prejudice to the petitioner. To substantiate his claim, the petitioner has relied upon the following judgments of this Court:

(i)K.S.Vijayendran Vs.The Inspector General of Registration, Santhome High Road, Santhome, Chennai in W.P.No.4952 of 2011, dated 18.03.2011 and

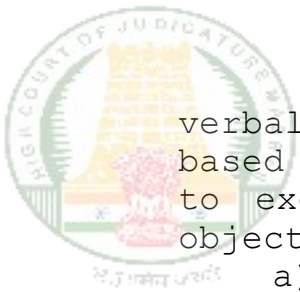
(ii)Rukmani Ganesan Vs.The Sub Registrar, Tiruppathur in W.P(MD)No.10479 of 2012, dated 21.12.2012

4.Per contra, learned Additional Government Pleader appearing for the respondents would submit that since there are co-sharers in the property and they were not shown as vendors in the sale deed, the Sub Registrar, the second respondent herein has every right to go into the question and refuse to register the document and there is nothing wrong in returning the document.

5.I have heard the submissions made by the learned counsel on either side.

6.Admittedly, even when a person disputes the title, the same cannot be enquired by the registering authority under Rule 55. Hence, it would be appropriate to extract Rule 55 which reads as follows:-

<https://hcservices.ecourts.gov.in/hcservices> Rule 55. It forms no part of a registering officer's duty to enquire into the validity of a document brought to him for registration or to attend to any written or



verbal protest against the registration of a document based on the ground that the executing party had no right to execute the document; but he is bound to consider objections raised on any of the grounds stated below:-

a) that the parties appearing or about to appear before him are not the persons they profess to be;

b) that the document is forged;

c) that the person appearing as a representative, assign or agent, has no right to appear in that capacity;

d) that the executing party is not legally dead, as alleged by the party applying for registration; or

e) that the executing party is a minor or an idiot or a lunatic".

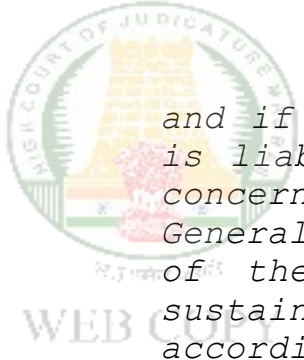
7. A reading of Rule 55 of the Rules clearly shows that the second respondent cannot go into the question regarding right and ownership of the property. Under Rule 55, the Registrar is only duty bound to verify whether any objection has been made as mentioned in Rule 55.

8. In K.S. Vijayendran's case (supra), this Court at paragraph 11 of the order has held as follows:-

"11. A close reading of the Act as well as the Rules, elicited above, shows that the reason which has been made out by the registering authority for refusing registration does not find place either under the Act or the Rules. The scope of enquiry by the registering authority is restricted only as per the statutory provisions enunciated under the Act as well as the Rules framed thereunder and the authority cannot do anything which is contrary to the provisions of the statute."

9. In yet another case in Rukmani Ganesan's case (supra), this Court at paragraph 11 has held as follows:-

"11. A reading of the said order would show that the Registrar has refused to register the document on the ground that the property belonged to one Kalai Selvi. On the other hand, the impugned order was passed by the Registrar by coming to conclusion that the vendor of the petitioner has no title over the property and as such, the same could not be registered. Rule 55 does not provide enquiry with regard to the right and ownership of the same. The authority concerned are only bound to verify whether there is any fraud or forgery of the document. In my opinion, the respondent ought not to have refused to register the document. In these circumstances, I do not agree with the submission made by the learned Additional Government Pleader that the Sub Registrar had acted only as per the circular issued by Inspector General of Registration. If the instruction issued by way of circular against the object of the Act and Rules framed thereunder



and if the impugned order is based on the instruction, it is liable to be set aside. So far as the present case is concerned, the alleged instruction given by the Inspector General of Registration is totally against the provisions of the Act. Therefore, the impugned order cannot be sustained and the same is liable to be quashed and, accordingly, quashed."

10. In the above circumstances, the judgments relied upon by the learned counsel for the petitioner is squarely applicable to the facts of the present case. Following the same, the writ petition is allowed and the second respondent is directed to register the document submitted by the petitioner, if it is otherwise in order. No costs.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar

To

1. The District Registrar,
Virudhunagar,
Virudhunagar District.

2. The Sub Registrar,
Veera Chozan,
Virudhunagar District.

3. Indunesan,
The Sub Registrar,
Veera Chozan,
Virudhunagar District.

+One cc to Mr. N. Sathish Babu, Advocate, SR.No.60083

+One cc to The Special Government Pleader, SR.No.60564

sms

RL/6C/2P/SKS/RR/SAR3/26.10.2016

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