



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2016

CORAM:

THE HONOURABLE Mr.JUSTICE K.RAVICHANDRABAABU

W.P.(MD)No.504 of 2016

Rajendran

... Petitioner

Vs.

1.The District Registrar,
Pattukottai Registration District,
Pattukottai, Thanjavur District.

2.The Sub Registrar,
Thiruvonam Sub Registrar Office,
Thiruvonam, Thanjavur District.

3.Govindarasu
4.Periyathambi
5.Palani

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the 2nd respondent from registering the sale deed in respect of Survey No.355/15B1 and 355/15B2 to an extent of 27 cents executed by the 4th respondent in favour of the 3rd respondent or his wife without hearing the petitioner and consequently, direct the 2nd respondent to return the sale deed if any submitted for registration.

For Petitioner : M/s.C.Bharathi
For Respondents 1 and 2 : Mr.K.Mahesh Raja, G.A.

ORDER

This Writ petition is filed seeking for a mandamus, forbearing the 2nd respondent from registering the sale deed in respect of Survey No.355/15B1 and 355/15B2 to an extent of 27 cents executed by the 4th respondent and consequently, direct the 2nd respondent to return the sale deed, if any submitted for registration.

2.Mr.K.Mahesh Raja, learned Government Advocate takes notice for the respondents 1 and 2. By consent, the Writ petition itself is taken up for final disposal.

3.The case of the petitioner is as follows:
The above mentioned property was inherited by the petitioner and other legal heirs namely, respondents 3 to 5 from his father Karuppa Konar. Accordingly, he is having a share in the said property and similarly, the respondents 3 to 5 also have their respective shares. Oral partition took place and acted upon in his family. While that being so, the 3rd respondent deliberately moved to get a document registered from his



brother namely, the 4th respondent in respect of the share allotted to the petitioner also. Therefore, the petitioner made a representation to the respondents 1 and 2 on 29.10.2015, requesting them not to register any sale deed in respect of the above said property, wherein, it is stated that he is entitled to a share. However, the 2nd respondent even after receipt of the protest petition, proceeded to register the document. Therefore, as per Circular No.67, the 2nd respondent is not empowered to register the document without knowing the ownership of the person, who is alienating the said property. The petitioner has also taken steps to challenge the above said illegal sale deed executed.

4.Perusal of the above said facts would show that the dispute between the petitioner and the respondents 3 to 5 is a pure and simple civil dispute over a property. In the absence of allegation of impersonation or fraud as contemplated in the Circular No.67, I don't think that the petitioner is justified in the present course of action. Therefore, the petitioner has to only approach the competent civil Court by challenging the sale deed, if the petitioner is claiming a right of share over the said property. The 2nd respondent as the registering authority certainly cannot go into the title to the properties and decide the same before registering the document of sale.

5.The scope of the registering authority had been considered and decided by this Court on very many occasions to the effect that he is not competent to go into the title of the property sought to be conveyed.

6.In view of the above stated facts and circumstances, I am of the view that the petitioner has approached this Court and filed this Writ petition with misconceived relief.

7.Accordingly, this Writ petition is dismissed. However, liberty is given to the petitioner to agitate his right before the competent civil court in the manner known to law. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1.The District Registrar,
Pattukottai Registration District,
Pattukottai, Thanjavur District.

2.The Sub Registrar,
Thiruvonam Sub Registrar Office,
Thiruvonam, Thanjavur District.

+ 1 CC TO M/S.C.BHARATHI, ADVOCATE IN SR NO.2150
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR NO. 1811