



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2016

C O R A M

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.18573 of 2013

and

M.P. (MD) .Nos.1 and 2 of 2013

S.Maria Arputham

... Petitioner

Vs.

1. The Joint Commissioner/ Executive Officer,
Kanyakumari District Thirukkivilgal,
Head Office, Susindram,
Kanyakumari District.
2. The District Registrar, (Addl. Incharge),
Department of Registration,
Marthandam, Kanyakumari District.
3. The Sub Registrar,
Department of Registration,
Verkilambi, Kanyakumari District.
4. The Tahsildar,
Kalkulam Taluk, Kanyakumari District ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue WRIT OF CERTIORARI FIED MANDAMUS to call for the records pertaining to the impugned order dated 6.8.2012 made in NO.487/B/2012 passed by the 2nd Respondent in confirming the order dated 16.11.2011 made in Unsettled Document B24/2011 passed by the 3rd Respondent in pursuance of the communication dated 1.6.2011 made in Na.Ka.No.1791/2011/G3 by the 1st Respondent and communication to the 2nd respondent dated 30.7.2012 made in Na.Ka.No.G3/1791/2011 and quash the same and consequently direct the 3rd respondent to register the Unsettled Document bearing B24/2011 forthwith.

For Petitioner : Mr.S.Palanivelayutham

For R2 to R-4 : Mr.Aayiram K.Selvakumar,
Government Advocate

For R-1 : No appearance.

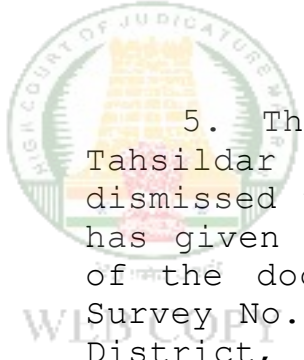
**O R D E R**

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 6.8.2012 made in No.487/B/2012 passed by the second Respondent, confirming the order dated 16.11.2011 made in Unsettled Document B24/2011 passed by the third Respondent in pursuance of the communication dated 1.6.2011 made in Na.Ka.No.1791/2011/G3 by the first Respondent and communication to the second respondent dated 30.7.2012 made in Na.Ka.No.G3/1791/2011, quash the same and consequently direct the 3rd respondent to register the Unsettled Document bearing B24/2011 forthwith.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for respondent Nos.2 to 4 and perused the records.

3. The petitioner submits that the property bearing Re-survey No.226/16B, measuring an extent of 5 cents out of 9 Ares (Old Survey No.2971/5A) situated in Athoor Village, Verkilambi Sub Registration District, Kalkulam Revenue Taluk, Marthandam Registration District, Kanyakumari Revenue District, belongs to his ancestors and that the same was a subject matter of a family partition between the petitioner and his brothers in the year 1994. The petitioner also claims that he has purchased the property by sale deed registered as document No.376 of 1999 and document No.989 of 2001. The petitioner further submits that Patta to the said property was given to the petitioner in Patta No.7091 and that he is in possession and enjoyment of the property by paying kist to the revenue. The petitioner has also produced the copies of 'A' Register, Chitta and Adangal for the said property in question.

4. It is the further case of the petitioner that the petitioner intended to execute a settlement deed in favour of his son and that the registration was turned down by the third respondent, on the ground that he has received a letter of objection dated 01.06.2011 from the first respondent, requesting the third respondent not to accept the Settlement Deed presented by the petitioner by stating that the said property belongs to Arulmighu Bhagavathi Amman Temple. The order refusing to register the document was passed on 16.11.2011 after accepting the document and in the said order, the petitioner was given 30 days time to file an appeal before the second respondent. An appeal was preferred by the petitioner before the second respondent and the second respondent has also confirmed the order of the third



5. The Appellate Authority after recording the report of Tahsildar about the grant of Patta in favour of the petitioner, dismissed the appeal only on the ground that the first respondent has given a letter dated 30.07.2012 objecting to the registration of the document claiming title to the property in respect of Survey No.226/16B in Athoor Village, Verkilambi, Sub Registration District, Kalkulam Revenue Taluk, Marthandam Registration District, Kanyakumari Revenue District.

6. It has been repeatedly held that the scope of the enquiry under the Registration Act for accepting the document for registration is limited. Under Section 55 of the Tamil Nadu Registration Act, the Registering Authority has no jurisdiction to deal with the objections of third parties, raising dispute on title over the subject matter of the document of conveyance presented for registration. It is a settled position that registration of document would not affect the right, title and interest of any person who is not a party to the document. The document cannot be concluded as a fraudulent transaction, based on a letter of objection alleged to have been sent by the first respondent. The first respondent has not filed any counter in this Writ petition. The respondents 2 and 3 have filed counter affidavit disputing the competency of petitioner to execute the settlement deed relying upon the letter of first respondent.

7. In the above circumstances, this Court is unable to sustain the orders of respondents 2 and 3 and, the impugned order passed by the second respondent by proceedings in No.487/B/2012, dated 06.08.2012 confirming the order passed by the third respondent in respect of the document bearing No.P24/2011, dated 16.11.2011 are quashed and the third respondent is directed to register the document, namely, the settlement deed dated 07.01.2011 which is bearing No. P24/2011 within a period of two weeks from the date of receipt of a copy of this order.

8. With the above directions, the Writ Petition is disposed of. There is no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(AS)

/TRUE COPY/

Sub Assistant Registrar



To

1. The Joint Commissioner/Executive Officer,
Kanyakumari District Thirukkivilgal,
Head Office, Susidram, Kanyakumari District.
2. The District Registrar, (Addl. Incharge),
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Marthandam, Kanyakumari District.
3. The Sub Registrar,
Department of Registration,
Verkilambi, Kanyakumari District.
4. The Tahsildar,
Kalkulam Taluk, Kanyakumari District.

+1cc to M/S.S.PALANIVELAYUTHAM,ADVOCATE, SR NO: 41189
+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO: 41248

pmu

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