

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2017

CORAM

The Honourable MR. JUSTICE M.DURAIWAMY

W.P.No.7464 of 2017

S.Gopalakrishnan

...Petitioner

v.

1 The Joint I Sub Registrar
Namakkal

2 T.S.Vyasa Rao

3 V.Padmapriya

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus to direct the 1st respondent to register the Sale Deed dated 23.3.2017 presented by the petitioner in respect of the land comprised in Old Survey No.497/1 T.S.No.3 and 4, Block 21, Ward D, Patta No.1494, situated at Namakkal Town and Taluk within the Namakkal Registration District, Namakkal Joint-1 Sub Registration District.

For Petitioner : Mr.I.Abrar Md. Abdullah

For Respondents : Mr.A.N.Thambidurai
Spl. Govt. Pleader

ORDER

The petitioner has filed the above writ petition to issue a Writ of Mandamus, directing the 1st respondent to register the Sale Deed dated 23.3.2017, presented by the petitioner in respect of the land comprised in Old Survey No.497/1, T.S.Nos.3 and 4, Block 21, Ward D, Patta No.1494, situated at Namakkal Town and Taluk within the Namakkal Registration District, Namakkal Joint-1 Sub Registration District.

2. It is the case of the petitioner that he got the sale deed executed by respondents 2 and 3 on 23.03.2017 in respect of the properties mentioned above. According to the

petitioner, 2nd respondent's father, viz., T.V.Srinivasa Rao got the property under a registered Will dated 25.01.1966 from one Ramasamy Achar. After the death of Ramasamy Achar, the said Srinivasa Rao became the absolute owner of the property. The said Srinivasa Rao died on 25.04.1983 leaving his son, the 2nd respondent and two daughters, viz., Namagiri and Ratna Bai. The said Ratna Bai died on 09.08.2009 leaving her husband, viz., N.Kuppannan, as her surviving legal heir.

3. According to the learned counsel for the petitioner, after the death of Srinivasa Rao, his three children were entitled to 1/3rd share each. However, the petitioner sought to purchase half share of the entire property from the respondents 2 and 3 under the sale deed dated 23.03.2017.

4. The first respondent returned the document by 23.03.2017 stating that the petitioner sought to purchase more than the share belonging to the respondents 2 and 3. The first respondent has stated that the 2nd respondent is entitled only to 1/3rd share. The 3rd respondent is the daughter of the 2nd respondent, who has no share or right in the property.

5. The learned counsel appearing for the petitioner submitted that under section 15(2)(a) of the Hindu Succession Act, 1956, the share of the deceased daughter, viz., Ratna Bai's share revert to the heirs of her father and therefore, after the reversion, the 2nd respondent and Namagiri are entitled to half share each. According to the learned counsel for the petitioner, the purchase made by the petitioner in respect of half share is legally valid under section 15(2)(a) of the Hindu Succession Act, 1956. So far as the share of the parties under section 15(2)(a) of the Hindu Succession Act, 1956 is/are concerned, the 1st respondent cannot decide the same and only a competent civil court can decide the issue with regard to the allotment of shares in respect of the property belonging to late Srinivasa Rao. सत्यमेव जयते

6. Admittedly, Ratna Bai had died leaving behind her husband, viz., N. Kuppannan, as her surviving legal heir. The sale deed dated 23.03.2017 was not executed or countersigned by the said N.Kuppannan. Therefore, it is open to the person who is/are aggrieved over the execution of the sale deed dated 23.03.2017 to file a civil suit either to set aside the sale deed or to modify the extent of the property mentioned in the sale deed, in accordance with law. Further, the 1st respondent cannot return the document for modifying the extent of the property in the schedule mentioned in the property.

7. In these circumstances, I am of the view that the 1st

respondent can be directed to register the document in favour of the petitioner, if it is otherwise in order. However, I make it clear that if any legal heir of the deceased Ratna Bai or any other person aggrieved over the execution of the sale deed dated 23.03.2017, he or they is/are at liberty to challenge the execution of the sale deed dated 23.03.2017 in accordance with law, before the competent civil court.

With these observations, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Rj

To

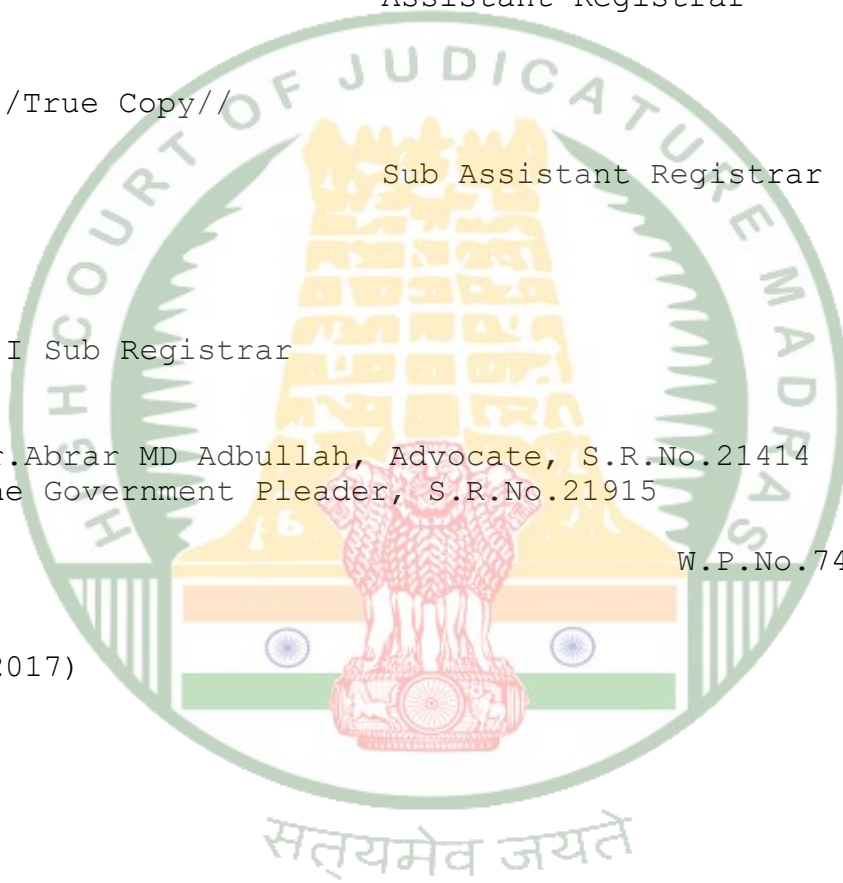
The Joint I Sub Registrar
Namakkal

+1cc to Mr.Abrar MD Adbullah, Advocate, S.R.No.21414

+1cc to the Government Pleader, S.R.No.21915

W.P.No.7464 of 2017

SSI(CO)
RS(12/04/2017)



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