



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVANW.P(MD) No.1084 of 2016 and
W.M.P. (MD) No.908 of 2016

M.Indrani

... Petitioner

-vs-

1. The Sub-Registrar,
Chinnalapatti,
Dindigul District.2. The Joint Commissioner,
H.R. & C.E. Department,
Madurai.2. The Assistant Commissioner,
H.R. & C.E. Department,
Dindigul.

... Respondents

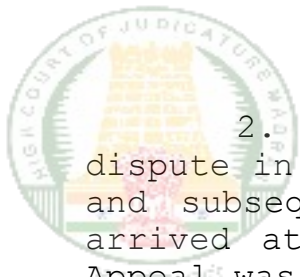
Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the consequential proceedings of the 1st respondent dated 26.08.2015, refusing to register the petitioner's Will dated 25.08.2014 tendered for registration in respect of her house property and the communications of the 3rd respondent dated 23.02.2015 & 19.05.2015 in Na.Ka.No.262/2008/A3 and quash the same and issue a consequential direction to the 1st respondent to register the petitioner's Will forthwith.

For Petitioner : Mr.N.Dilip Kumar

For Respondents : Mr.T.S.Mohamed Mohideen
Addl. Govt. Pleader

O R D E R

This writ petition has been filed, seeking to quash the consequential proceedings of the 1st respondent dated 26.08.2015, refusing to register the petitioner's Will dated 25.08.2014 tendered for registration in respect of her house property and the communications of the 3rd respondent dated 23.02.2015 & 19.05.2015 in Na.Ka.No.262/2008/A3. The petitioner also sought a direction to the 1st respondent to register the petitioner's Will forthwith.



2. The case of the petitioner is that originally, there was a dispute in respect of the property in question in S.A.No.168 of 1965 and subsequently, the parties had entered into a compromise and arrived at an amicable settlement, pursuant to which, the Second Appeal was closed on 16.04.1970 by recording the compromise memo as well as payment of consideration to the HR&CE Department. It is the further case of the petitioner that the Temple is entitled to only 10 cents of land and the remaining portion of the land stood vested with the actual owner, who later started plotting his lands and selling them to third parties by various sale transactions. It is also the case of the petitioner that she purchased a piece of land to the extent of 1800 sq.ft. in the year 1970 and registered the same by a sale deed. Thereafter, when the petitioner wanted to execute a Will in favour of her children, her request was negatived by the authorities without proper verification of records as well as the compromise recorded in the second appeal. Aggrieved by the same, the petitioner is before this Court, questioning the same.

3. The learned Additional Government Pleader, by relying upon the counter affidavit filed by the 3rd respondent, would contend that the Temple is the absolute owner of the property in question and on coming to know of the fact that somebody is trying to sell its property in an illegal manner, the 3rd respondent had informed the 1st respondent not to register the disputed property in favour of any individual. Therefore, there is no irregularity in passing the impugned orders and the writ petition is liable to be set aside.

4. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the records placed on record.

5. It is seen that by virtue of the compromise memo entered into in the year 1970, the properties in question vested with the actual owner, from whom, the petitioner purchased a particular portion of the land. When the petitioner approached the Temple authorities for issuance of No Objection Certificate for bequeathing her property in favour of her children, they simply sent communications dated 23.02.2015 & 19.05.2015 to the 1st respondent not to register the same, without reference to the disposal of second appeal on the basis of the compromise between the HR&CE Department and the actual owner of the properties. Thus, there is no justifiable reason for the respondents to object to the registration of the same and therefore, the impugned proceedings of the 1st respondent dated 26.08.2015 and the consequential communications of the 3rd respondent dated 23.02.2015 & 19.05.2015 have no leg to stand.

6. Accordingly, this writ petition is allowed. The impugned orders dated 26.08.2015, 23.02.2015 and 19.05.2015 are set aside and the matter is remitted to the 1st respondent for proceeding further. It is open to the petitioner to approach the 1st respondent for registration of her Will dated 25.08.2014 and on any such



representation made, the 1st respondent shall forthwith register the same, on due fulfilment / compliances of other legal norms, by the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

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/True Copy/

Sd/-

Assistant Registrar(AE)

Sub -Assistant Registrar

To:

1. The Sub-Registrar,
Chinnalapatti,
Dindigul District.
2. The Joint Commissioner,
H.R. & C.E. Department,
Madurai.
3. The Assistant Commissioner,
H.R. & C.E. Department,
Dindigul.

+One cc to The Special Government Pleader, SR.No.89106

+One cc to Mr.N.Dilipkumar, Advocate, SR.No.88764

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RL/6C/3P/KK/SAR1/11/12/2017

W.P(MD) No.1084 of 2016

21.11.2017