



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 08.02.2017

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THE HONOURABLE MR. JUSTICE K. RAVICHANDRABAABU

W.P. (MD) No. 22221 of 2016

and

W.M.P (MD) No. 15941 of 2016

Manjammal

... Petitioner

Vs.

1. Inspector General of Registration,
Office of Inspector General of Registration,
4/4, 4th Trust Link Street,
Mullima Nagar, Mandavelipakkam,
Raja Annamalaipuram,
Chennai - 600 004.

2. Sub Registrar,
Sub Registrar Office,
Rajapalayam,
Virudhunagar District.

3. Chokkathai

4. S.J. Priya

... Respondents

(R3 and R3 impleaded vide court order
dated 07.12.2016 in W.M.P (MD) No. 16049 of 2016)

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the order in Serial No. 01/2016 dated 15.11.2016 of the second respondent and quash the same and direct the second respondent to register the Gift Deed dated 14.11.2016 executed by this petitioner.

For Petitioner : Mr. B. Rajesh Saravanan

For Respondents : Mr. A. Muthukaruppan

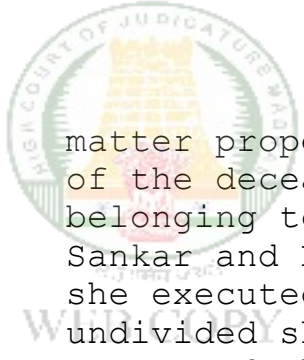
A.G.P. for R1 and R2

Mr. J. Lawrance for R3 and R4

ORDER

This writ petition is filed challenging the order of the second respondent, dated 15.11.2016, wherein the second respondent returned the settlement deed filed by the petitioner for registration on the ground that the petitioner has not produced the parent document establishing her title over the property, which was sought to be settled by way of the settlement deed. Consequently, the petitioner also prayed for a direction to the second respondent to register the gift deed dated 14.11.2016.

2. The petitioner is the mother of one Jeganathan, whereas the third and fourth respondents are the wife and daughter of said Jeganathan respectively. The said Jeganathan owned the subject



matter property. After his death, the petitioner being the mother of the deceased, wanted to settle her 1/3rd share in the properties belonging to the deceased in favour of her grandchildren, namely, Sankar and Kumar being the children of her daughter. Therefore, she executed a gift deed dated 14.11.2016 gifting her 1/3rd undivided share in the properties of the deceased Jeganathan and presented the same before the second respondent for registration. The document was returned by the second respondent on the reason that the petitioner has not produced the parent document establishing her title over the properties sought to be settled.

3. After notice, the respondents 3 and 4 entered appearance through their counsel and filed a counter affidavit opposing the prayer sought for in this writ petition. Their contention is that the father of the deceased Jeganathan borrowed several loans and therefore, if the properties settled in favour of grandchildren born to the petitioner's daughter, it would cause great difficulty for the respondents 3 and 4 to meet out such borrowers. It is the further contention of the fourth respondent that the deceased Jeganathan, namely, her father has executed a Will, which is in the bank locker.

4. Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the respondents 3 and 4.

5. Before going into the merits of the matter, this Court wants to record its displeasure that the parties, namely, the petitioner and the respondents 3 and 4 did not utilise an opportunity given to them to settle the issue amicably by way of mediation, even though this Court referred them to do so before the Mediation Centre of this Court. The Mediation Centre sent a report stating that the mediation between the parties failed. Therefore, they wanted the matter to be decided by this Court on merits.

6. The fight is between the mother-in-law on one side and daughter-in-law and granddaughter on the other side. There is no dispute to the fact that the subject matter property belongs to one Jeganathan @ Jeganathan Raja, who is son of the petitioner; the husband of the third respondent and the father of the fourth respondent. Therefore, there cannot be any doubt with regard to the legal position that the petitioner being the mother and class I heir is entitled to 1/3rd share in the properties, when the other legal-heirs namely, the respondents 3 and 4 are entitled to the remaining share in the said property equally. Now the petitioner wants to execute gift deed in respect of her 1/3rd share in favour of her grandchildren born through her daughter. The said act of the petitioner is sought to be prevented by the respondents 3 and 4 by opposing the registration. As on date, when the petitioner claims 1/3rd share in the property belonged to the deceased son and the legal position is also indicating such right in favour of petitioner, this Court is of the view that the second respondent is not justified in seeking the parent document especially when those documents are said to be in the custody of the respondents 3 and 4 and that the petitioner is also willing to produce the certified copy of the same before the second respondent. If at all if any

title dispute arising between the parties based on an alleged Will said to have been executed by the said deceased Jeganathan, which is also not put forth before this Court, they have to agitate such right only before competent civil Court. Therefore, I consider the reasons for returning the documents without registering the same, cannot be sustained.

7. Accordingly, the writ petition is allowed and the impugned order is set aside. Consequently, the second respondent is directed to register the gift deed dated 14.11.2016 presented by the petitioner and return the same to the petitioner, if there is no other legal impediment for doing so. Needless to say that mere registering the settlement deed will not take away the rights of the respondents 3 and 4 from challenging the same before the appropriate civil court, if they have any such legal right to do so. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Inspector General of Registration,
Office of Inspector General of Registration,
4/4, 4th Trust Link Street,
Mullima Nagar, Mandavelipakkam,
Raja Annamalaipuram, Chennai - 6.

2.The Sub Registrar,
Sub Registrar Office,
Rajapalayam,
Virudhunagar District.

+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO: 7499

+1 cc to MR.J.LAWRANCE, ADVOCATE, SR NO:7151

+1 cc to MR.B.RAJESH SARAVANAN, ADVOCATE, SR NO:7156

SKN

SVA/MR/15.02.2017/3P/6C

W.P. (MD) No.22221 of 2016
and

W.M.P (MD) No.15941 of 2016
08.02.2017