

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.5891 of 2011

C.Venkatesappa
Petitioner

Vs

1.The District Registrar, Registration Department
Krishnagiri

2.The Sub Registrar, Registration Department
Hosur, Krishnagiri

Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the 1st Respondent in its proceedings, bearing Application No.1/2010, dated 28.02.2011 and to quash the same as illegal and to direct the 2nd Respondent to register the document P115 of 2006.

For Petitioner : Mr.V.Raghavachari
For Respondents : Mr.P.Purushothaman, AGP

ORDER

The prayer in this Writ Petition is to quash the proceedings, bearing Application No.1/2010, dated 28.02.2011 and to direct the 2nd Respondent to register the document P115 of 2006.

2. This court heard the learned counsel on either side and also perused the materials placed on record.

3. According to the learned counsel for the Petitioner, the Petitioner had purchased the property situated at S.No.188/1F, measuring 0.05.5 hectares at Badtahe Palli Village, Hosur, from one Gowamma, on 10.04.2006, by paying a consideration of Rs.50,000/- and she had executed a sale deed in favour of the Petitioner and on the same day, possession was handed over to the Petitioner. The terms of sale were put into

writing and she had affixed her LTI in the sale deed in front of the witnesses. When the same was likely to be presented for registration before the 2nd Respondent, she had evaded her appearance on the ground of health ailments. Thereafter, the sale deed was presented before the 2nd Respondent for compulsory registration under the provisions of the Registration Act. The 2nd Respondent had issued a notice to Gowramma, insisting on her appearance. She appeared before the 2nd Respondent and had denied the execution of the sale deed and hence, the 2nd Respondent had refused to register the said document. Hence, the Petitioner had filed an application before the 1st Respondent under Section 73 of the Act and the said application was returned by the 2nd Respondent on the ground of limitation. Therefore, the Petitioner had filed WP.No.27204 of 2007, which was allowed by order dated 15.06.2010, directing the 1st Respondent to dispose of the application of the Petitioner, on merits and in accordance with law. In the mean time, Gowramma died on 21.06.2008 and the same was informed to the 1st Respondent. The Petitioner had appeared before the 1st Respondent for enquiry and thereafter, the 1st Respondent had refused to register the document. Hence, this Writ Petition has been filed, seeking the relief as stated above, contending that the 1st Respondent has failed to appreciate the oral and documentary evidence placed before him, including the LTA of Gowramma and the sale consideration paid by the Petitioner and therefore, the impugned order is liable to be quashed.

4. On the other hand, the learned Additional Government Pleader for the Respondent, by relying on the averments of the counter affidavit filed by the 1st Respondent, has submitted that proper enquiry was conducted by the 1st Respondent and four witnesses, who signed the document in question and the scribe were examined, but the said Gowramma died on 21.06.2008, as per the death certificate issued by the Chief Registrar of Births and Deaths, Baliganahali, Karnataka and therefore, the document was rightly refused to be registered by the 1st Respondent.

5. The Petitioner had presented the document in question before the 1st Respondent for registration. It is brought to the notice of this Court that after refusal of execution of the sale deed, the said vendor, Gowramma had sold the very same property in favour of one Navinkumar on 14.08.2006, by a registered sale deed, bearing Document No.9718 of 2006 on the file of the Sub Registrar, Hosur. It was also recorded by the said Sub Registrar that the said Vendor had appeared before the Sub Registrar and denied the execution of the sale deed in favour of the Petitioner and thereafter, pursuant to the order passed by this Court, enquiry was conducted and the said Vendor died and thereafter, the request made by the Petitioner had been rejected by the 1st Respondent.

6. Considering the aforesaid facts and circumstances, this Court is of the considered view that if the Petitioner is really aggrieved, he has to seek his remedy before a civil court. When there is a dispute regarding the title of the property in question, it is open to the Petitioner to approach appropriate forum, namely, civil court. There is no force in the contentions of the learned counsel for the Petitioner. Consequently, this Writ Petition is liable to be dismissed.

7. In the result, this Writ Petition is dismissed. No costs. However, it is made clear that in the event of the Petitioner approaching the appropriate forum, by filing a civil dispute, the same shall be decided, on merits and in accordance with law, and uninfluenced by the observations made in this order.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

Srcm

To

1.The District Registrar, Registration Department
Krishnagiri

2.The Sub Registrar, Registration Department
Hosur, Krishnagiri

+1 CC to Govt. Pleader sr 88965.

+2 Ccs to Mr.V.Raghavachari, Advocate sr 88117, 87823.

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SJ(CO)
SP(31/01/2019)