

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16-07-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.43317 of 2016

And

W.M.P.Nos.37166, 37167 and 37168 of 2016 and 2803 of 2017

1.A.Arumugam

2.Divya

3.Ramya

4.Smt.Ponmalar

.. Petitioners

Versus

1.The Inspector General of Registration,
Santhome,
Chennai-600 028.

2.The District Registrar,
Coimbatore District,
Coimbatore.

3.The Joint Registrar-II,
Coimbatore.

4.The Sub-Registrar,
Parasala SRO,
Vennoor,
Neyyattinkara Taluk,
Trivandrum District, सत्यमेव जयते
Kerala.

5.The District Collector,
Coimbatore District,
Coimbatore.

6.R.Sengoda Gounder

7.Chinnasamy Gounder

8.Vinayagamurthy

9.A.Sengoda Gounder

10.S.Manogaran

11.K.Kuppusamy

12.Smt.Tamilarasi

13.Smt.Mrs.Jothimani

14.Smt.Kumudam

15.Smt.Saraswathy

16.Smt.Dhanabackiyam

17.Smt.Pooranammal ... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, declaring that the re-registration done on 9.9.2015 as Document No.14/2015 by the third respondent by receiving a sum of Rs.1,00,000/- towards deficit registration charges and stamp duty on the basis of registration done by the fourth respondent on 5.9.1994, registered as Document No.9268/1994 is illegal and liable to be declared as null and void and not binding on the petitioners on the basis of their representation dated 15.10.2016.

For Petitioners : Mr.R.Thanjan

For Respondents-1to4 : Mr.T.M.Pappiah,
Special Government Pleader.

For Respondent-5 : Ms.A.Sri Jayanthi,
Special Government Pleader.

For Respondents-6to17 : Mr.G.Karthikeyan

सतयमेव जयते O R D E R

The Writ of Declaration is preferred to declare that the re-registration done on 9.9.2015, as document No.14/2015 by the third respondent, by receiving a sum of Rs.1,00,000/- towards deficit registration charges and stamp duty on the basis of registration done by the fourth respondent on 5.9.1994, registered as Document No.9268/1994 is illegal and liable to be declared as null and void and not binding on the petitioners on the basis of their representation dated 15.10.2016.

2. The learned counsel, appearing for the writ petitioners, made a sole ground that the re-registration of the Sale Deed executed by the contesting respondents are in violation of the provisions of the Registration Act, 1908 and further such a re-

registration was done after a lapse of about 21 years from the date of the original registration of execution of the Sale Deed during the year 1994.

3. The learned counsel for the writ petitioners is of an opinion that the original Sale Deed between the parties was executed on 5.9.1994 before the Sub-Registrar Office in Kerala State. Now, oral submission is made by the learned counsel for the writ petitioners that the said Sale Deed dated 5.9.1994 is under challenge in a civil suit between the parties. The said Sale Deed was registered before the fourth respondent/The Sub-Registrar, Parasala SRO, Vennoor, Neyyattinkara Taluk, Trivandrum District, Kerala.

4. The grievances of the writ petitioners are that they have executed a Power of Attorney in favour of the respondents 6 to 17, who in turn executed another Sale Deed in proceedings dated 9.9.2015, after a lapse of about 21 years. Thus, the writ petitioners are of the opinion that the said re-registration is null and void.

5. The learned counsel, appearing on behalf of the respondents 6 to 17, opposed the contentions of the learned counsel for the writ petitioners, by stating that the re-registration was executed based on the Power of Attorney registered by the writ petitioners and there was no infirmity, as such, in respect of the execution of Sale Deed before the Sub Registrar Office in the State of Tamil Nadu. The re-registration through the Power of Attorney was executed on account of the fact that an Amendment was issued to Section 28 of the Registration Act, 1908. Thus, it was necessitated for the parties to execute an another Sale Deed in the State of Tamil Nadu, in view of the fact that the parties have decided to sell the property to some other third party and they could not able to sell by virtue of the Sale Deed registered in the State of Kerala.

6. The learned Special Government Pleader, appearing on behalf of the respondents 1 to 4, clarified the legal position, by stating that the amendment came into force with effect from 29.3.1997. Thus, any document registered outside the State of Tamil Nadu becomes null and void only thereafter. In other words, the documents in respect of immovable property situated in the State of Tamil Nadu, if registered in any other State after 29.3.1997, then alone the documents became null land void. However, the documents/instruments registered prior to 29.3.1997 are valid in the eye of law and re-registration is not required in respect of these documents.

7. This Court is of an opinion that the Amendment Notification published in the Tamil Nadu Government Gazette is enclosed in page No.39 of the typed set of papers filed along with the writ petition by the writ petitioners. The amendment came into force with effect from 29.3.1997. For Section 28 of the Act, the following Section is substituted, namely,

"28. Place for registering documents relating to land. - Save as in this Part otherwise provided. -

(a) every document mentioned in clauses (a), (b), (c), (d) and (e) of sub-section (1) and sub-section (2) of Section 17 in so far as such document affects immovable property and in clauses (a), (b), (c) and (cc) of Section 18, shall be presented for registration in the office of a Sub-Registrar within whose sub-district the whole or some portion of the property to which such document relates is situate in the State of Tamil Nadu; and

(b) any document registered outside the State of Tamil Nadu in contravention of the provisions of clause (a) shall be deemed to be null and void."

Thus, the amended Act, made it very clear that any document registered outside the State of Tamil Nadu in contravention of the provisions of clause (a) shall be deemed to be null and void.

8. It goes without saying that the documents registered prior to amendment in any other State is valid in view of the fact that there was no prohibition during the relevant point of time. Admittedly, the original Sale Deed executed between the parties, the present Sale Deed was executed on 5.9.1994, and during that period registration of documents in other States were permissible. Thus, the re-registration itself is an unnecessary one and however, the parties in order to satisfy the potential buyers effected re-registration and therefore, the question of nullifying the re-registration of the Sale Deed does not arise at all.

9. This Court is of a considered opinion that the Sale Deed registered on 5.9.1994 before the fourth respondent/The Sub-Registrar, Parasala SRO, Vennoor, Neyyattinkara Taluk, Trivandrum District, Kerala is also a valid document and the re-registration is only to be construed as a follow-up registration and therefore, there is no ground to declare that the said registration done on 9.9.2015 is null and void. However, the present writ petition is confined only in respect of the re-registration and if the parties are having any other issues in

respect of the registration of the Sale Deed on factual aspects and on any other ground, they are at liberty to dispute the same before the competent Civil Court of Law in relation to the title or ownership or otherwise.

10. With these observations, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Inspector General of Registration,
Santhome,
Chennai-600 028.

2.The District Registrar,
Coimbatore District,
Coimbatore.

3.The Joint Registrar-II,
Coimbatore.

4.The Sub-Registrar,
Parasala SRO,
Vennoor,
Neyyattinkara Taluk,
Trivandrum District,
Kerala.

5.The District Collector,
Coimbatore District,
Coimbatore.

+1cc to Mr.R.THANJAN, Advocate, S.R.No.46479
+1cc to Mr.G.KARTHIKEYAN, Advocate, S.R.No.46988
+1cc to the Government Pleader, S.R.No.47080 & 47572

WP 43317 of 2016

BR(CO)
TR(27/07/2018)