

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.17031 of 2018

1. D.Vinoth
2. R.Kumaravel
3. K.Nagappan
4. C.Senthilsundaram
5. C.Muthulakshmi

.. Petitioners

-vs-

1. The District Registrar
Puducherry
2. The Sub Registrar
Bahour
Puducherry
3. B.Eswararaj
4. E.Anandaraj
5. Pushpa @ Nagavalli
6. Vengadesan, S/o Vaithilingam
7. Bharati, W/o Manavalan
8. Perumal, S/o/ Vaithilingam

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the order dated 29.05.2018 passed by the first respondent in his proceedings Appeal No.01/2018 and quash the same and consequentially direct the respondents 1 & 2 to register the petitioners sale deed dated 04.04.2018.

For Petitioners :: Mr.K.S.Karthik Raja

For Respondents :: Mr.J.Kumaran
Government Advocate (Pondy)
for R1 & 2

ORDER

The petitioners have questioned the impugned order dated 29.5.2018 passed in Appeal No.1 of 2018 by the District Registrar, Puducherry, in and by which the petitioners were directed to approach the civil Court to annul the sale deed of Pushpa @ Nagavalli and the subsequent settlement deeds executed by her, if they are convinced that the said documents are invalid. Saying so, he has rejected the request of the petitioners for registration of their document.

2. Learned counsel for the petitioners submitted that when the appellate authority has agreed with the case of the petitioners that they have produced the legal heirship certificate issued by the learned Principal District Munsif, Puducherry in O.S.No.127 of 2014, wherein (i) Mrs.Thaiyanayagi has been declared as the legal heir of Vaithyanadhan, S/o Balasoupramaniapoulle & Sittalatchoumy, W/o Vaittianadam, (ii) Anandaraj has been declared as the legal heir of the deceased Deivanaye, W/o Eswararaj, (iii) Anandaraj has been declared as the legal heir of the deceased grandparents Vaithyanadhan and Seethalakshmi, after holding so, he has further held that the petitioners have not produced any legal heirship certificate that the executants are the legal heirs of Dhandapani. When Thaiyanayagi, Anandaraj and Eswararaj have obtained the legal heirship certificate from the learned Principal District Munsif, Puducherry in O.S.No.127 of 2014, the refusal to register the document is wholly unacceptable and bad in law.

3. But this Court is unable to find any substance or justification to accept the request of the petitioners for registration of the document. The reason is that the subject matter of property has been sold under a registered sale deed in favour of Pushpa @ Nagavalli by one Mr.Vidhyachand, who in turn executed settlement deeds in favour of her daughter and sons. Now the petitioners want to execute another sale deed without even challenging or setting aside the sale deed registered in favour of Pushpa @ Nagavalli, who had also executed settlement deeds in favour of her daughter and sons. In that view of the matter, unless the petitioners, as rightly directed by the District Registrar, approach the competent civil Court to annul the sale deed of Pushpa @ Nagavalli and the subsequent settlement deeds executed by her, it would be highly impossible to entertain the request of the petitioners. The learned Government Advocate for the respondent also, referring to Section 77 of the Registration Act, submitted that once the Registrar refuses to order the document to be registered under Section 72 or Section 76, any person claiming under such document, within thirty days from the date of refusal, institute a civil suit within the local limits of the original

jurisdiction and get a decree directing the document to be registered by such office. As the refusal in the present case, in my considered opinion, is founded by reason, the petitioners have to approach the civil Court as per Section 77 of the Registration Act. With this observation, the writ petition stands dismissed. Consequently, W.M.P.Nos.20282 & 20283 of 2018 are also dismissed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ss
To

1. The District Registrar
Puducherry
2. The Sub Registrar
Bahour, Puducherry

+1cc to Mr.K.S.Karthik Raja, Advocate, S.R.No.
+1cc to the Government Pleader, S.R.No.

W.P.No.17031 of 2018

CS/25/07/18



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