



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 09.04.2018
CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.P. (MD) .No.1379 of 2017
in
W.A (MD) SR.No.5616 of 2017
and
C.M.P. (MD) SR.No.5618 of 2017

Samraj ... Petitioner /Third Party/
Nil.

Vs.

1.R.Murugesan

2.The Sub-Registrar,
Registration Department,
Panagudi,
Tirunelveli District.

... Respondents/Respondents/
Respondents

PRAYER in C.M.P.(MD).No.1379 of 2017: This Civil Miscellaneous Petition filed under Section 151 of the Civil Procedure Code praying this Court to grant leave to file Writ Appeal against W.P (MD)No.12191 of 2015, on the file of this Court.

PRAYER in W.A.(MD)SR.No.5616 of 2017:This Writ Appeal filed under Clause 15 of Letters Patent, against the order made W.P(MD)No.12191 of 2015, dated 10.08.2015, on the file of this Court.

Prayer in WP(MD). 12191/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned order dated 10.07.2015 passed by the Respondent herein and quash the same and consequently direct the Respondent to register and release the Settlement deed dated 10.07.2015 in favour of Petitioner s wife namely Indira, in respect of the property comprised in S. No. 50/1, 51/1 - B, 51/3 B, situated at Pazhavor Village, Part II, Radhapuram Taluk, Tirunelveli District.

For Petitioner : Mr.T.Selvakumaran

For Respondent-1 : Mr.K.Govindarajan

<https://hcservices.ecourts.gov.in/hcservices/>
For Respondent-2 : No appearance



O R D E R

[Order of the Court was delivered by K.RAVICHANDRABAABU, J.]

This Civil Miscellaneous Petition is filed for grant of leave to file Writ Appeal against the order made in W.P(MD)No.12191 of 2015, dated 10.8.2015.

2.Since the Petitioner/proposed appellant herein was not a party in the above Writ Petition, he filed the present Civil Miscellaneous Petition for grant of leave, as stated supra.

3.The first respondent herein as the Writ Petitioner, challenged the order of the second respondent herein, dated 10.08.2015, wherein and whereby the second respondent herein refused to register a Settlement Deed executed by the Writ Petitioner in favour of his wife Indra on the reason that some other parties' names are found in the Encumbrance Register.

4.The learned Single Judge after discussing the facts and circumstances, set aside the order of the second respondent herein and directed him to register the Settlement Deed by specifically observing that the second respondent can deny registration of document only by conducting an enquiry on the grounds enumerated in the said Rule 55 of the Registration Rules, 1908 and therefore, he is bound to act only in accordance with the Act and Rules framed thereunder.

5.Now the Petitioner before us seeks to challenge the said order by claiming that he is having title to the property, which is sought to be settled by the first respondent herein in favour of his wife.

6.When this petition was taken up on 16.2.2018, this Court after finding that no averments were available as to how the Petitioner is aggrieved by the order passed in the Writ Petition, directed the Petitioner to file a better affidavit and also to produce necessary documents to establish his claim. Thereafter, the matter is listed today for further hearing. The Petitioner filed a better affidavit, dated 24.3.2018.

7.A perusal of the averments made in the better affidavit would disclose that the Petitioner has not improved his case in any manner by placing any material facts and figures. Once again, the Petitioner has only stated that he is having title to the property, without indicating as to how he derived title to the property and what are the documents available in support of such claim. The Petitioner has not produced any documents before us in support of such contention. In the absence of any averments indicating in clear and categorical terms as to how the Petitioner claims title to the property and in the absence of producing any document before us for perusal, we are of the considered view that the Petitioner has not made out a case for granting leave to file the Writ Appeal, as,



certainly, the facts as such pleaded do not indicate that he is an aggrieved person.

8. Therefore, this Miscellaneous Petition is dismissed, however, by granting liberty to the Petitioner to approach the competent Civil Court and agitate the matter, provided he is having sufficient materials to do so. Consequently, the Writ Appeal and connected Civil Miscellaneous Petition at SR stage are also dismissed. No costs.

Sd/
Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

The Sub-Registrar,
Registration Department,
Panagudi, Tirunelveli District.

+1cc to Mr.T.Selvakumaran, Advocate, SR.No. 60761
+1cc to Mr.K.Govindarajan, Advocate, SR.No. 60378
+1cc to Mr.P.THILAKKUMAR, Advocate, SR.No. 60808

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