



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.06.2018

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.11239 of 2017

and

W.M.P (MD) .No.8624 of 2017

Peer Mohammed

: Petitioner

Vs.

1.The Sub Registrar,
Thiruppuvanam Sub Registrar Office,
Thiruppuvanam,
Sivagangai District.

2.E.Mohammed Thajudheen

3.V.Mohammed Hanifa

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the first respondent not to register and execute a sale deed for the house and land to the extent of 5 cents in Survey No.119/2A1 and 119/2A2 at Kalugarkadai Village, Thiruppuvanam, Manamadurai Taluk, Sivagangai District on the basis of the petitioner's representation dated 28.04.2017.

For Petitioner : Mr.K.Gohul

For R-1 : Mr.V.Anand

Government Advocate

For R-2 : Mr.N.Mohideen Basha

ORDER

The ground, on which the petitioner seeks for a direction to restrain the Sub-Registrar to register the sale deed, is that the second respondent herein does not have a perfect title over the subject matter property and that the petitioner herein has title over the property in view of the gift deed executed in his favour.

2.This Court, in various judgments, has held that the powers of the Sub-Registrars are restricted to the extent of the circumstances prescribed under Rules 55 and 162 of the Registration Rules and that for no other reason, the registering authority can refuse the registration. It is also well settled that whenever the document is presented for registration, the Sub-Registrar has to go into the title of the properties and refuse registration.



3. The Hon'ble Division Bench of this Court had an occasion to deal with this aspect in a judgment of *V.K. Amalraj Vs. Inspector General (Registrations), The Appellate Authority, Government of Tamil Nadu, 120, Santhome High Road, Chennai and 4 others* reported in 2011 (1)CWC 283, in which the following observation was made:-

"10. It is the main grievance of the petitioner that registering authorities are indiscriminately registering the documents without making proper enquiry with regard to the rights and ownership of the seller. Therefore, Mandamus has to be issued to the respondents to stop all unlawful registration through out the State of Tamil Nadu by considering his representation, dated 09.10.2009. According to the respondents 1 to 3, the Registering Officer is expected to enquire into the document brought before him and he can make enquiry only within the frame of provisions of the Registration Act and the Rules framed thereunder, particularly with reference to Rule 55 relating to enquiry before the registration speaks about what is not the duty of the Registering Officer. Rule 55 is extracted hereunder:

"55. It forms no part of a registering officer's duty to enquire into the validity of a document brought to him for registration or to attend to any written or verbal protest against the registration of a document based on the ground that the executing party had no right to execute the document; but he is bound to consider objections raised on any of the grounds stated below:-

- (a) that the parties appearing or about to appear before him are not the persons they profess to be;
- (b) that the document is forged;
- (c) that the person appearing as a representative, assign or agent, has no right to appear in that capacity;
- (d) that the executing party is not really dead, as alleged by the party applying for registration; or
- (e) that the executing party is a minor or an idiot or a lunatic".

11. A close reading of the said Rule would show the registering authority is bound to consider the objection only on the ground which is stated in the said Rule. Rule 55 does not provide enquiry by the Registering Officer with regard to the right and ownership of the seller. Thus, the authorities concerned are bound to act only in accordance with the Act and Rules framed thereunder. The authorities cannot be directed to act contrary to the provisions of the statute. We also find that the writ petition is filed only to settle the family dispute



between the petitioner and the respondents 4 and 5. Hence, we do not find any merit in the writ petition."

4. In the instant case, the petitioner herein seeks for a direction to the first respondent to refrain from executing sale deed in connection with the property in Survey No.119/2A1 and 119/2A2 at Kalugarkadai Village, Thiruppuvanam, Manamadurai Taluk, Sivagangai District.

5. According to the learned counsel for the petitioner, the subject property was purchased by the second respondent herein through the funds of the petitioner herein and subsequently, the second respondent had also gifted the said lands to the petitioner as 'hibba'. Since the petitioner herein has title and right over the property, he has sought for the present prayer to refrain the Sub Registrar from entertaining any registration in the subject property.

6. As observed earlier, the powers of the Sub Registrar to investigate into the title of the property that is sought to be conveyed and a deed of conveyance is curtailed through various decisions of this Court. In the absence of any powers to investigate into the title of subject property, I am unable to comprehend as to how the petitioner's prayer can be entertained. If at all the petitioner is aggrieved against any registration that is intended to be made in the subject property or has been made, it is always open to him to seek appropriate remedy through the appropriate Civil Court or such other statutory authorities.

7. In the light of the above observations, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To
The Sub Registrar,
Thiruppuvanam Sub Registrar Office,
Thiruppuvanam,
Sivagangai District.
+1cc to Mr.N.MOHIDEEN BASHA, Advocate, SR.No. 67694

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