



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.01.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P. (MD) No.22127 of 2017

and

WMP (MD) No.18426 of 2017

P.Umadevi

... Petitioner

Vs.

The Sub Registrar,
Chinnadharapuram Sub Registrar Office,
Chinnadharapuram,
Aravakurichi Taluk,
Karur District.

... Respondent

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings of the respondent in Check Slip dated 05.10.2017 and quash the same and consequently directing the respondent to register the documents executed by the petitioner in respect of S.No.1188/1, Thennilai East Village, Karur District without insisting to produce the original deed in D.No.1443/2010 forthwith.

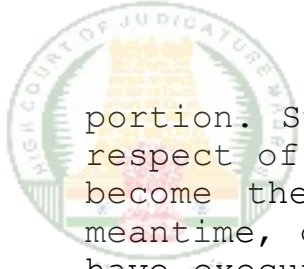
For Petitioner : Mr.J.Parekhkumar

For Respondent : Mr.M.Rajarajan
Government Advocate

ORDER

Challenging the impugned proceedings of the respondent, directing the petitioner to produce the original release deed in D.No.1443/2010 for registering her sale deed, this writ petition has been filed.

2.According to the petitioner, earlier, the petitioner's father got a decree for specific performance in O.S.No.55 of 1996 on the file of the Sub Court, Karur and pursuant to the decree passed in the suit, sale deed has been executed in favour of the petitioner's father. Thereafter, he sold six acres of land to one ~~Sevuruprasanna~~ another in Survey Nos.1188 and 1212. Subsequently the petitioner's father executed a gift deed in favour of the petitioner and her brother by name S.P.Sivakumar for the remaining



portion. Subsequently, her brother has executed a release deed in respect of his share and by virtue of the same, the petitioner has become the absolute owner of the property in question. In the meantime, one Devanan, who has no right over the property, said to have executed a sale deed in respect of the entire property in the above survey numbers in favour of one Balasubramanian and others. Aggrieved by the same, the said Karuppasamy has lodged a complaint against the said Balasubramanian and others and pursuant to the complaint given by the said Karuppasamy, the said Balasubramanian and others relinquished their right in respect of the land comprised in Survey Nos.1188, 1190, 1191 and 1212 and executed two release deeds vide Document Nos.1442 and 1443 of 2010 in favour of Karuppasamy and the petitioner respectively. The said facts are not known to the petitioner, everything was done without her knowledge and Document No.1443 of 2010 executed in favour of the petitioner also is not in her possession. While so, the petitioner has executed a sale deed dated 05.10.2017 in respect of the lands to an extent of 1.5 acre in Survey No.1188/1, Thennilai East Village in favour of one Valli Rani and when relevant documents were produced before the respondent for registration, the respondent refused to receive the same and passed the impugned order, directing the petitioner to produce the original release deed in Document No.1443 of 2010, alleged to have been executed by Balasubramanian and others in favour of the petitioner.

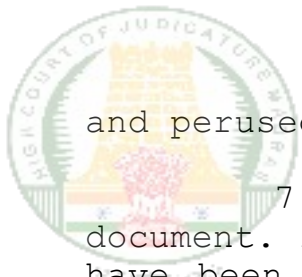
3. According to the petitioner, he was not aware of the execution of release deed by Balasubramanian in Document No.1443 of 2010 and the said document also not given to the petitioner. Under the said circumstances, he obtained a certified copy and produced the same before the respondent for registration. But the respondent without accepting the same, passed the impugned order.

4. The learned Government Advocate appearing for the respondent submitted that already the Inspector General of Registration has issued a Circular in Letter No.18339/C1/2012 dated 25.04.2012, wherein it is stated as follows:

"(C) In case the previous original document is lost, the party should produce certified copy of the document, copy of complaints recorded in police station and copy of advertisement published in local dailies regarding loss of documents. In such case, the party has to produce patta/property tax receipt in original."

5. Further, the learned Government Advocate submitted that as per the said circular, the petitioner has to produce certified copy of the document in question for registration of the document. But he has not done so and therefore, the order passed by the respondent does not call for any interference.

6. I have heard the rival submissions made on either side



and perused the entire materials available on record carefully.

7. It is not the case of the petitioner that she lost the document. According to her, a copy of the release deed alleged to have been executed by one Balasubramanian in Document No.1443 of 2010 has not been given to her. Earlier, one Devanan, without the knowledge of the petitioner has sold the property belonged to the petitioner in favour of Balasubramanian and subsequently, the said Balasubramanian, after coming to know about the criminal complaint lodged by one Karuppasamy, has executed two release deeds, one in favour of the petitioner and another in favour of the said Karuppasamy. According to her, the entire transaction has been taken place without the knowledge of the petitioner and hence original document in D.No.1443 of 2010 is not available with the petitioner. In the above circumstances, the petitioner has obtained a certified copy from the very same Sub Registrar Office and she is also not in a position to trace the above Balasubramanian and get original release deed executed in her favour.

8. The learned counsel appearing for the petitioner has brought to the notice of this Court that in the Circular issued by the Inspector General of Registration dated 25.04.2012, it is stated as follows:

"5. In case of cancellation of settlement deed if the settlor is unable to produce the original settlement deed as it may be with the settlee, then the settlor should produce certified copy of the settlement deed. The Registering Officer, after verifying the certified copy for identity, then register the cancellation deed without insisting for original deed."

9. In the instant case, it is the specific case of the petitioner that the above Balasubramanian has executed the release deed without her knowledge and therefore, she is not in a position to get the original release deed.

10. In the above circumstances, the respondent is directed to receive a certified copy of the release deed in Document No.1443 of 2010 and after verifying the same with the original available with his office, the respondent is directed to register the petitioner's document, if it is otherwise in order within a period of twelve weeks from the date of receipt of a copy of this order.

11. This writ petition is disposed of accordingly. No costs. Consequently, WMP(MD)No.18426 of 2017 is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/



To

The Sub Registrar,
Chinnadharapuram Sub Registrar Office,
Chinnadharapuram,
Aravakurichi Taluk,
Karur District.

+ 1 cc TO Mr.J.Parekhkumar , Advocate in SR No. 42516
+ 1 cc TO The Special Government Pleader in SR No. 42847

mj
AE/KKR/SAR2/30.01.2018/4P/4C

WP (MD) No.22127 of 2017
17.01.2018