



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.11.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

W.P.No.4335 of 2019

Subbathal,
W/o.R.Narayanasamy,
No.21/11, Ganapathy Gounder Street,
R.G.Pudur,
Chinniyampalayam Post,
Coimbatore. ... Petitioner

/versus/

1. The Sub-Registrar,
Gandhipuram Sub Registrar Office,
Saravanampatti,
Coimbatore District.

2. Mr.R.Palanisamy,
S/o.Late Ramasamy Gounder,
Adappukattu thottam,
Venkitapuram Post,
Kulathur,
Coimbatore.

3. Mr.P.Selvaraj,
S/o.R.Palanisamy,
Adappukattu thottam,
Venkitapuram Post,
Kulathur,
Coimbatore - 16.

4. Mrs.Shanthi,
W/o.Balasubramaniam,
No.649, 4th Street,
PLS Nagar,
Chinniyampalayam Post,
Coimbatore..

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, directing the 1st respondent to register the S.F.No.698/4C, situated at Kalapatti Village, Coimbatore, North Taluk and District and return the registered instruments after completing

the registration formalities in accordance with law, within the time to be stipulated by this Court.

For Petitioner : Mr. R.Bharath Kumar

For R1 : Mr.T.M.Pappiah,
Special Government Pleader

For R2 & R4 : Mr.T.M.Hariharan

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the Respondents.

2. The short point involved in this case is that, whether the petitioner herein is entitled to get her settlement deed registered without the parent document namely Will dated 19.07.2000, registered as document No.128/2000 on the file of the Sub-Registrar, Gandhipuram.

3. According to the petitioner, under the Will executed by her mother Rangammal, the petitioner and her sister Thulasiammal are entitled for 1.12 Acres each. The original Will is given to the possession of Thulasiammal. The said Thulasiammal died three years back, leaving behind the respondents 2 to 4 herein. In respect of land bequeath to the petitioner under the Will, the petitioner wants to settle it in favour of his son and her daughter. She executed settlement deed dated 22.06.2018 and presented before the 1st respondent/Sub-Registrar for registration, same was returned to be presented along with the original Will and other relevant documents.

4. Aggrieved by that, the present Writ Petition is filed seeking Mandamus directing the 1st respondent to register the settlement deed, dated 25.01.2019 executed by the petitioner herein.

5. The 1st respondent/Sub-Registrar, has filed counter, wherein, it is stated that, as per instruction issued in (i) Circular No.18339/C1/2012, dated 25.04.2012, (ii). Circular No.16168/C1/2016, dated 28.07.2016 and (iii) Circular No.25600/C1/2018, dated 07.06.2018 by the Inspector General of Registration, Chennai, it is the bounden duty of this respondent to verify the previous documents in respect of the documents presented for registration. Accordingly, this respondent insisted the petitioner to produce the previous documents for verification so as to complete the registration procedure.

6. The learned counsel appearing for the respondents 2 to 4 admits that, the original Will is in their possession and they are holding it since they are entitled for ½ share of Rangammal's property. The spirit behind the two circulars referred by the 1st respondent/Sub-Registrar, is to avoid fraudulent registration of documents by persons, who does not have clear title over the property.

7. Here is the case where there is no dispute regarding the property and the Will through which the petitioner claims right is a registered document and the persons who is in possession of the original Will admits his existence and possession. In this case, in order to mitigate the difficulty and also satisfy the spirit of the two circulars issued by I.G of Registration, the 1st respondent/Sub-Registrar, is directed to accept the settlement deed presented by the petitioner if it is accompanied by certified copy of the Will executed by Rangammal and other relevant Revenue documents in original. On such presentation, the 1st respondent shall register the deed after collecting necessary stamp duty and registration fees.

8. Accordingly, the Writ Petition is disposed of. No costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

bsm
To

The Sub-Registrar,
Gandhipuram Sub Registrar Office,
Saravanampatti,
Coimbatore District.

+1 CC to The Govt. Pleader sr 100446.
+1 CC to Mr.R.Bharath Kumar, advocate sr 99855

W.P.No.4335 of 2019

SS(CO)
SP(30/12/2019)