

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2019

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Writ Appeal No.1096 of 2017

V.Kamalachi @ Kala

...Appellant/Petitioner

-Vs-

1.The Sub Registrar
Virugambakkam Sub Registrar Office
Virugambakkam, Chennai.

2.M.Mariammal ...Respondents/Respondents

For Appellant : Mr.A.Lakshminarasimhan

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

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order passed in W.P.No.14651 of 2017 dated 13.06.2017.

W.P.No.14651 of 2017:- Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of documents pertaining to the registration of documents numbers 1537/2000 and 4110/2000 dated 30.03.2000 and 10.04.2000 on the file of the first respondent in respect of the property in Door No.28 Masuthi 1st Cross St (as per corporation receipt Revathi Street) Vadapalani Chennai 600 026 comprised in Survey No 178/9 as per patta Block No.9 T.S.No.23 No.110 Saligramam Egmore- Nungambakkam Tk admeasuring an extent of 480 sq.ft. of land and superstructure thereon with electricity and quash the same forthwith and to direct the first respondent to delete the entry of the said registration of revocation of settlement deed and subsequent deed in favour of the second respondent herein.

J U D G M E N T

(Judgment of the Court was delivered by T.S.SIVAGNANAM, J.)

Heard Mr.A.Lakshminarasimhan, learned counsel for the appellant and Mr.T.M.Pappiah, learned Special Government

Pleader. Notice sent to the second respondent has been refused and such endorsement is found in the cause list.

2. This appeal is directed against the order in W.P.No.14651 of 2017, which was filed for issuance of a Writ of Certiorarified Mandamus to cancel two original documents bearing No.1537 of 2000 and No.4110 of 2000 on the file of the Sub Registrar Office, Virugambakkam. According to the appellant / writ petitioner, the property was settled in her name by her mother, by virtue of a settlement deed dated 20.03.1996, registered as Document No.1521 of 1996. Subsequently, the said settlement deed was cancelled by a document dated 30.03.2000 and the appellant's mother settled the same property in favour of the second respondent, who is none other than the appellant's younger sister, by a document dated 10.04.2000. The appellant's mother died on 16.09.2011. The appellant would state that she had no knowledge of the cancellation of the settlement deed dated 20.03.1996 or the execution of the settlement deed in favour of her sister / second respondent dated 10.04.2000 and only when there was a disturbance to her possession by her sister and family members, she came to know by approaching the Sub Registrar Office that a fresh settlement deed has been executed by her mother.

3. Learned Single Judge noted that the appellant has come to the Writ Court 17 years after the settlement deed dated 10.04.2000 was executed and relegated the appellant to approach the Civil Court. Learned counsel for the appellant would vehemently contend that there are several cases, where the Court has entertained challenge of such registered instruments. One such judgment in the case of "M.Rajesh and another -Vs- The Inspector General of Registration and Others" in W.A.No.156 of 2016 dated 20.04.2017 was relied upon.

4. In our considered view, cases of this nature have to be examined based on facts, which are relevant to the particular case and not by adopting uniform or standard formula. The learned Single Judge was right in making an observation that the appellant has approached the Court after 17 years and the appropriate remedy is to file a civil suit. We find that there is no error in such a suggestion rendered by the writ Court.

5. Learned counsel for the appellant would submit that even if the appellant approaches the civil Court, there is every likelihood that her plea will be turned down on the ground of limitation. The appellant need not have such an apprehension, as she can always establish that the date of knowledge ie., the date on which she came to know of the cancellation of the settlement deed dated 30.3.2000 and the settlement deed in favour of the second respondent dated 10.04.2000 and it is well

open to the appellant to seek for appropriate orders from the civil Court under Section 14 of the Limitation Act.

6. For the above reasons, we are not inclined to interfere with the order of the learned Single Judge, impugned in this writ appeal. The writ appeal is disposed of with a liberty to the appellant to approach the Civil Court. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KST

To

The Sub Registrar
Virugambakkam Sub Registrar Office
Virugambakkam, Chennai.

+1cc to Mr.A.Lakshminarasimhan, Advocate, S.R.No.41847
+1cc to the Government Pleader, S.R.No.42530

Writ Appeal No.1096 of 2017

KK (CO)

vkr (24/05/2019)

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