

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.11.2019

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.31233 of 2019
and

W.M.P.Nos.31372 and 31374 of 2019

V.Bhakthavatsalam

..Petitioner

Versus

1. The District Registrar (Admin),
(Additional Registrar of Registration Department),
South Chennai,
Chennai - 600 015.

2. The Sub Registrar,
Sub Registrar Office,
Thiruneermalai Main Rd,
Pammal, Chennai - 600 075

..Respondents

PRAYER:-Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the 1st respondent in his proceedings No.01608/2019 dated 16.05.2019 in respect of the pending Settlement Deed vide Document No.P/9/2019 dated 20.02.2019 executed by the petitioner in favour of his wife and daughter and quash the same as illegal and against the provisions of Section 53(a)(i) of the Indian Registration Act and consequently direct the 2nd respondent to register and release the same.

For Petitioner .. Mr.R.Narayanan

For R1 and R2 .. Mr.T.M.Pappiah,

Special Government Pleader

ORDER

This Writ Petition is filed to call for the records relating to the first respondent in his proceedings No.01608/2019 dated 16.05.2019 in respect of the pending Settlement Deed vide Document No.P/9/2019 dated 20.02.2019 executed by the petitioner

in favour of his wife and daughter and quash the same as illegal and against the provisions of Section 53(a)(i) of the Indian Registration Act and consequently direct the second respondent to register and release the same.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

3. The order of the District Registrar dated 16.05.2019 rejecting the document presented by the petitioner herein on the ground that it cannot be treated as a settlement deed executed after love and affection in the absence of such expression, and settling in favour of his estrange wife and daughter is challenged in this Writ Petition.

4. According to the petitioner, he has decided to settle his property in favour of his wife and daughter in view of the amicable settlement arrived between them in the Domestic Violence case initiated by his wife on the file of Tambaram District Munsif Court in D.V.No.34 of 2014. The settlement of property in lieu of permanent alimony.

5. The marriage between the petitioner and his wife Devaki still substitutes, whereas the first respondent has presumed that the marital relationship is broken which is factually not correct. Hence, the order passed by the first respondent refusing to register the settlement deed is improper and illegal.

6. The counter filed by the second respondent, it is stated that the petitioner is transferring the property to his wife and his daughter as a one time payment in favour of monthly maintenance. Hence, the same will not fall within the definition of settlement as defined under Section 2(24-b) of the Stamp Act reads as follows:-

24. "Settlement" means any non testamentary disposition, in writing, of movable or immovable property made-

- a) in consideration of marriage
- b).....
- c).....

7. So, any disposition of property in consideration of marriage need not be at the time of marriage or at the severance of marriage settlement in favour of wife and daughter shall presume to be out of love and affection unless and otherwise

stated contrarily not expressly stated in the recital of the document. Hence, though the interpretation of the first respondent under Section 2(24-b) of the Stamp Act is incorrect and not in consonance with the other provisions of law. Hence, the order of the first respondent in his proceedings dated 16.05.2019 is quashed.

8. Accordingly, this Writ Petition is disposed of. The second respondent is hereby directed to register the document and return the same after collecting the stamp duty and registration charges if any. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Registrar (Admin),
(Additional Registrar of Registration Department),
South Chennai,
Chennai - 600 015.
2. The Sub Registrar,
Sub Registrar Office,
Thiruneermalai Main Rd,
Pammal, Chennai - 600 075

+1 cc to M/s.R.Narayanan, Advocate Sr.No. 94715

+2 cc to M/s.R.Narayanan, Advocate Sr.No. 94715 (09.01.2020)

+1 cc to The Government Pleader Sr.No. 95572

AKM/16.12.19/3P-7C /

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