



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.1496 of 2019

and

W.M.P.(MD)No.1290 of 2019

M.Chitra

... Petitioner

Vs.

1.The District Registrar (Admn)
District Registrar Office,
District Court Campus,
Tiruchirappalli-620001.

2.The Sub Registrar,
Woraiyur Sub Registrar's Office, Maruthandakurichi,
Tiruchirappalli 620017. ... Respondents

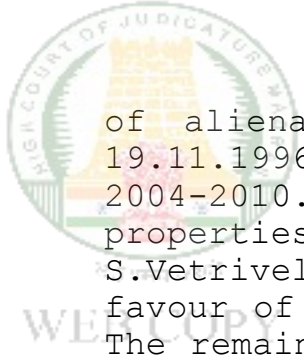
PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records culminated in Na.Ka.No.15526/Aa1/2018 on the file of the first respondent dated 31.12.2018 and quash the same as illegal. Void abinitio not in accordance with law and direct the second respondent by way of Mandamus to register the sale deed dated 05.02.2018 executed by S.Rajasekaran and S.Vetrivel in favour of the petitioner in respect of the properties comprised in New T.S.No.93 and 94, New Block 8, New ward C admeasuring an extent of 3407 square feet situated at North Vellala Street, Pandamangalam Woraiyur, Tiruchirappalli 620003 within a specific time limit that may be fixed by this Court.

For Petitioner : Mr.Shankar Murali

For Respondents : Mr.M.Murugan
Government Advocate

ORDER

The petition mentioned property originally belong to one Thiruvarangam Pillai. He executed a Will dated 30.06.1992 bequeathing the "C" schedule properties in favour of his wife Pitchaiammal for her life and thereafter, to go to his grand children S.Rajasekaran and S.Vetrivel. In respect of the other properties, life estate was given in favour of his son Swaminathan and thereafter, to go to his grand children namely S.Rajasekaran and S.Vetrivel. In the Will, it had been mentioned that the beneficiaries namely, S.Rajasekaran and S.Vetrivel and their male lineal descendants were to enjoy the properties without any power



of alienation. The said Thiruvarangam Pillai passed away on 19.11.1996. The life estate holders also passed away in the year 2004-2010. After the demise of the life estate holders, the properties devolved on the beneficiaries S.Rajasekaran and S.Vetrivel. They sold a portion of the "C" schedule properties in favour of one D.Prirya vide registered sale deed dated 24.11.2017. The remaining extent in the "C" schedule properties was to be sold to the writ petitioner. The sale deed dated 05.12.2018 was prepared and presented for registration before the second respondent. The second respondent however citing the clause in the Will declined to register the same. A check slip dated 19.12.2018 was issued by the second respondent refusing to register the document. Aggrieved by the same, the writ petitioner filed an appeal before the first respondent. The first respondent also by the impugned order dated 31.12.2018 advised the petitioner to move the jurisdictional Court. Questioning the same, this writ petition has been filed.

2.Heard the learned counsel on either side.

3.As rightly contended by the learned counsel appearing for the writ petitioner, the Registering Authority could have declined to register the document in question only on the grounds set out in the Statutory Rules namely Rule 55 and Rule 162 of the Registration Rules.

4.The case on hand is clearly not falling within the same. In any event, it was not open to the registering authority to refuse the registration by citing the clauses in the Will. There is considerable force in the contention of the petitioner's counsel that the restraint clause with regard to alienation would offend the Rule against perpetuity as set out in Section 14 of the Transfer of Property Act. In any event, these are not matters that should bother the second respondent.

5.In this view of the matter, the order impugned in this writ petition stands quashed. The second respondent is directed to register the petition mentioned sale deed, of-course, subject to the fulfilment of other formalities. The writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T & P)

// True Copy //

Sub Assistant Registrar (CS)

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To

1.The District Registrar (Admn)
District Registrar Office,
District Court Campus,
Tiruchirappalli-620001.

2.The Sub Registrar,
Woraiyur Sub Registrar's Office, Maruthandakurichi,
Tiruchirappalli 620017.

+1CC TO MR.K.S.SANKARA MURALI, Advocate Sr. No.63120

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 63362

W.P.(MD)No.1496 of 2019

and

W.M.P.(MD)No.1290 of 2019

25.04.2019

NS (CO)

TR (24.05.2019) 3P 5C