



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.12.2019

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD) .No.14649 of 2019

and

W.M.P. (MD) Nos.4933 and 4934 of 2017

WEB COPY

M.Neelamegam

.. Petitioner

Vs.

1.The Sub Registrar,
District Registrar Cadre,
Woraiyur, Trichy District.

2.G.Kalyani

.. Respondents

PRAYER: Writ 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 order dated 07.06.2019 in RFL/உறையூர்/91/2019, passed by the first respondent and quash the same as illegal and arbitrary and further direct the first respondent to receive the petitioner's document and register the same.

For Petitioner	: Mr.P.Ganapathisubramanian
For Respondent 1	: Mr.M.Murugan, Government Advocate
For Respondent 2	: Mr.K.S.Kathiravan

ORDER

This Writ Petition is filed for issuing a Writ of Certiorarified Mandamus to quash the impugned order passed by the first respondent dated 07.06.2019 and to direct the first respondent to receive the petitioner's document and register the same.

2.The petitioner states that the property comprised in S.F.No.314/3D measuring an extent of 20 cents in Adhavathur East Village, Srengam Taluk in Trichy District belonged to the petitioner's father Muthukaruppan. The petitioner further states that his father died intestate on 10.04.2013 and that his mother by name Illaigiyam also died intestate on 20.08.2014. The petitioner admits that the second respondent is his sister. However, it is the contention of the petitioner that the petitioner's family members orally partitioned the joint family properties. It is stated by the petitioner that the second respondent preferred a petition not to entertain any document for registration. It is admitted that the Sub Registrar passed the impugned order stating that the petitioner has not produced any document to establish his title. Even in the affidavit filed in support of this petition, the petitioner has referred to a suit filed by the petitioner's sister in O.S.No.124 of 2019 on the file of the learned Second Additional District Court, Trichy. It is the case of the petitioner that the second respondent and petitioner's other sisters have filed the suit for partition by suppressing material facts and that the petitioner's sisters do not



have any right. Even from the admitted facts, the petitioner's father died intestate leaving behind the petitioner and other female heirs who are also entitled to have share in the property. Though the petitioner says that there was some arrangement by which the sisters had substantial properties, the prior partition alleged by the petitioner is not accepted by the second respondent. The issue regarding the entitlement to get a share can always be agitated in the suit in O.S.No.124 of 2019 which is now pending. *Prima facie* the property is in the joint holding of all the children of petitioner's father and it is inherited by all the children of the petitioner's father by name Muthukaruppan. The revenue records also should follow. When patta is expected to be transferred in the name of all the children of Muthukaruppan, it is improper for one of the heirs of Muthukaruppan to claim the property as his absolute property and to seek registration of a document of conveyance. It is relevant to point out that under Section 5 of the Tamil Nadu Pattapass Book Act, the registration of a document can be accepted only from a person whose name is registered in the revenue records as pattadhar. Hence, this Court is unable to see any irregularity in the order passed by the Sub Registrar based on the objection of the second respondent. Therefore, this Writ Petition is devoid of any merits and hence, dismissed. However, it is open to the petitioner to establish his title in the pending suit and then approach the Sub Registrar to register the document without showing the other legal heirs as parties. The learned Counsel appearing for the petitioner now apprehend that the observation of this Court may influence the Civil Court. This Court therefore makes it clear that the Civil Court may consider and dispose of the suit uninfluenced by any of the observation made in this Writ Petition. No costs.

Sd/-

Assistant Registrar (CS-I)

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/ /2020

Sub Assistant Registrar(CS)

SRM

To
The Sub Registrar,
District Registrar Cadre,
Woraiyur,
Trichy District.

+1 CC to M/s.KATHIRAVAN, Advocate (SR-105476[F] dated 17/12/2019)
+1 CC to M/s.SPL.GP (SR-105568[F] dated 18/12/2019)

ORDER MADE IN
W.P. (MD) No.14649 of 2019
17.12.2019

SMA/21/01/2020/2P/4C