



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.09.2019**

CORAM:

THE HONOURABLE **MR.JUSTICE M.SUNDAR**

W.P (MD)No.20877 of 2019

A.Paramasamy

... Petitioner

/Vs./

1.The District Registrar,
Palani, Dindigul District.

2.The Sub Registrar,
Office of the Sub Registrar,
Oddanchatram, Palani Taluk,
Dindigul District.

3.The Sub Inspector of Police,
Idayakottai Police Station,
Dindigul District.

4.P.Aviyappan

5.A.Chellamuthu

6.V.Rajendran

... Respondents

PRAYER: Writ Petition - filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the first respondent dated 05.07.2019 in Na.Ka.No.2900/Aa1/2019 and quash the same and consequently direct the 1st respondent to conduct proper enquiry with regard to release of the partition deed of the petitioner and also direct the 1st respondent to give proper instructions to the 2nd respondent to hand over the petitioner's partition deed within the time frame as fixed by this Court.

For Petitioner	: Mr.J.Sudhakar for Mr.R.Senthil Kumar
For R-1 & R-2	: Mr.M.Murugan Government Advocate
For R-3	: Mr.K.Mu.Muthu Additional Government Pleader

ORDER

Mr.J.Sudhakar, learned counsel on behalf of writ petitioner and Mr.M.Murugan, learned Government Advocate, who accepts notice on behalf of respondents 1 and 2 and Mr.K.Mu.Muthu, learned Additional Government Pleader who accepts notice on behalf of third respondent are before this Court.

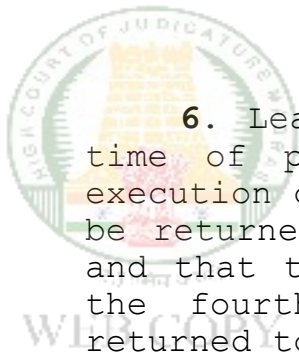


2. To be noted, respondents 4 to 6 are private respondents. This Court is informed that respondents 4 and 6 are writ petitioner's father and blood brother respectively. This Court is also informed that respondent No.6 is a Document Writer.

3. From submissions made before this Court and from the case file placed before this Court, it comes to light that this writ petition can be disposed of by passing an order which is not adverse to the rights of the private respondents 4 to 6 and therefore, with consent of learned counsel for writ petitioner and learned State counsel, main writ petition is taken up, heard out and is being disposed of.

4. Undisputed facts are that the respondent No.4, writ petitioner and fifth respondent namely, father and two (2) sons executed a partition deed and presented it in the office of second respondent (jurisdictional Sub-Registrar) for registration; that there was shortfall in payment of stamp duty/registration fee, owing to which, the document had not been returned; that writ petitioner sent a representation dated 07.03.2019 in this regard; that writ petitioner thereafter filed an earlier writ petition being W.P.(MD) No.10205 of 2019 alleging inaction qua representation dated 07.03.2019 and seeking a mandamus; that the writ petition was disposed of by another Hon'ble Single Judge (after hearing both sides) on 26.04.2019, recording the submission of the State counsel that 07.03.2019 representation would be disposed of within a period of six (6) weeks; that thereafter pursuant to orders of this Court, the first respondent passed an 'order dated 05.07.2019 bearing reference No.Na.Ka.No.2900/Aa1/2019' (hereinafter referred to as 'impugned order' for the sake of brevity); vide the impugned order, the first respondent, after referring to an earlier order of this Court had observed that the partition deed which was pending Document No.P5/2018 was thereafter registered as Document No.2837/2018 (14.12.2018) on payment of deficit stamp duty/registration fee being paid and the document was returned to the parties.

5. In the light of the aforesaid factual backdrop, assailing the impugned order, instant writ petition has been filed. Notwithstanding several averments in the affidavit filed in support of this writ petition, notwithstanding several grounds urged / contentions canvassed in the affidavit filed in support of this writ petition, learned counsel for writ petitioner made one pivotal submission and that one pivotal submission is that the document has been returned to his father (4th respondent before this Court) in other words, it is the plea of the writ petitioner that the partition deed ie., said document ought to have been returned to writ petitioner and not to his father.



6. Learned State counsel on instructions, submits that at the time of presentation for registration of the partition deed / execution of partition deed, the parties agree that the document can be returned to the father who is the eldest amongst the three (3) and that the deficit stamp duty and registration fee were paid by the fourth respondent father and therefore, the document was returned to the fourth respondent father.

7. In the aforesaid backdrop, this Court finds no infirmity in impugned order and no grounds to interfere in impugned order. Writ petitioner has not made out any case warranting / calling for interference in impugned order.

8. Resultantly, writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The District Registrar,
Palani, Dindigul District.

2.The Sub Registrar,
Office of the Sub Registrar,
Oddanchatram, Palani Taluk, Dindigul District.

3.The Sub Inspector of Police,
Idyakottai Police Station, Dindigul District.

+1 CC to Mr.R.SENTHIL KUMAR, Advocate SR-90101.

+1 CC to SPL GP SR-90534.

Order made in
W.P(MD)No.20877 of 2019
(2/2)

Dated:
27.09.2019

CS (17.10.2019) 3P 6C