

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.9902 of 2020 and

W.M.P.No.12035 of 2020

1.Subbathal

2.Gopalakrishnan

... Petitioners

Vs.

1.The District Registrar,
No.3, 1st Street, KPN Colony,
Valipalayam, Tirupur 641 602.

2.The Sub Registrar,
6/171, Post Office Road,
Avinashi Main Road,
Avinashi, Coimbatore 641 654.

...Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus, direction to quash the check slip dated 13.07.2020 issued by the second respondent has illegal and total non application of mind and consequentially direct the second respondent to register the settlement deed executed by the first petitioner in favour of the second petitioner on 10.07.2020 and pass orders.

For Petitioners : Mr. M.Guruprasad

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

O R D E R

On consent given by either side, the main writ petition itself is takenup for final hearing.

2.This writ petition has been filed challenging the check slip issued by the second respondent refusing to register the settlement deed presented for registration by the first petitioner dated 10.07.2020.

3.The case of the petitioners is that the petitioners became entitled to the subject property pursuant to compromise decree passed in a partition suit in O.S.No.693 of 2007. The petitioners thereafter found that their brother had executed some documents behind the back of the petitioners. Mutation

was also done in the Revenue Records. Thereby, a portion of the property belonging to the petitioners was also gifted in favour of the Panchayat in Document No.8590 of 2016, dated 04.07.2016.

4.The petitioners realised that it will not be possible for them to get back the portion of the property belonging to them which was already gifted in favour of the Panchayat.

5.The petitioners made an application to the Revenue Divisional Officer and the Revenue Divisional Officer by his proceedings dated 13.05.2020 cancelled the settlement deed that is said to have been executed in favour of the legal heirs of first petitioner's brother. This order was passed under Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The petitioner wanted to register this order.

6.The petitioners filed a writ petition before this Court in W.P.No.8338 of 2020 seeking for a direction to the respondents to register the proceedings of the Revenue Divisional Officer dated 13.05.2020. This Court passed an order on 17.06.2020 by giving appropriate directions.

7.The first petitioner thereafter executed a settlement deed in favour of the second petitioner, who his her son on 10.07.2020. This document was presented for registration through online application. The second respondent through the impugned refusal check slip returned back the document on the ground that a portion of the property which was already gifted in favour of the Panchayat is also forming part of the schedule of property that is sought to be settled by the first petitioner in favour of the second petitioner and therefore, this document cannot be accepted for registration.

8.Aggrrieved by the same, the present writ petition has been filed before this Court.

9.The learned counsel for the petitioners submitted that the first petitioner never intended to include the portion of the property that has already been gifted in favour of the Panchayat. However, the learned counsel fairly submitted that it could have been properly worded in the settlement deed. The learned counsel further submitted that the document will be properly worded and three separate schedule of property will be shown in the document wherein, Schedule A will describe the entire property, Schedule B will describe the property gifted to the Panchayat and Schedule C will describe the property that is settled by the first petitioner in favour of the second petitioner. The learned counsel submitted that if that is done, the second respondent should not have any objection in registering the document.

10.Mr.T.M.Pappiah, leaned Special Government Pleader appearing on behalf of the respondents submitted that on such clarity brought forth in the document, the second respondent will proceed further to receive the document and register the same, if it is otherwise in order.

11.In view of the specific stand that has been taken by the learned counsel appearing on either side, this writ petition is disposed of with a direction to the first petitioner to present the settlement deed, after making necessary clarifications in the document and the second respondent on receipt of the documents shall register the same, if it is otherwise in order and release the document to the petitioners. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

vkr
To

1.The District Registrar,
No.3, 1st Street, KPN Colony,
Valipalayam, Tirupur 641 602.

2.The Sub Registrar,
6/171, Post Office Road,
Avinashi Main Road,
Avinashi, Coimbatore 641 654.

+1cc to Mr.M.Guruprasad , Advocate SR.No. 25849

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BR co
A.SK(24/09/2020)