



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.09.2020

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

WP.No.12384/2020 & WMP.Nos.15253 & 15257/2020

Savithiri

.. Petitioner

Versus

- 1.The Inspector General of Registration
Government of Tamil Nadu
100, Santhome High Road,
Chennai 600 028.
- 2.The Assistant Inspector General of Registration
Registration Department, Coimbatore.
- 3.The Deputy Inspector General of Registration
Registration Department, First Floor,
Kamaraj Road, Redfields,
Opp.to Airforce Admin College,
Coimbatore 641 018.
- 4.The Sub Registrar,
Office of Sub Registrar,
Thondamuthur, Coimbatore.

.. Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the entire records on the file of the 4th respondent vide proceedings in Na.Ka.No.202/2020 dated 04.08.2020 and quash the same, consequently, directing the 4th respondent not to receive the document, in respect of the land in patta No.304 [NiUPa No.110668] in Survey No.39/182 admeasuring an extent of 1.41.5 hectares [3.50 acre] of punja land situated at Thenkarai Village, Perur Taluk, Thondamuthur, Coimbatore, from the third parties, in pursuant to the petitioner's representation dated 31.07.2020.

For Petitioner : Mr.R.Shanmugham

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



ORDER

- (1) This writ petition has been filed challenging the proceedings of the 4th respondent dated 04.08.2020 and for a consequential direction to the 4th respondent, not to receive any document for registration pertaining to the subject property.
- (2) The case of the petitioner is that the subject property originally belonged to the father of the petitioner and by virtue of the Will executed in favour of the petitioner, the petitioner became the owner of the property, after the demise of her father. The petitioner came to know that some other person is attempting to deal with the subject property and a Power of Attorney has also been executed and registered in the office of the 4th respondent. According to the petitioner, the private party does not have any right to deal with the property and therefore, a representation was given by the petitioner before the 4th respondent on 31.07.2020, requesting the 4th respondent not to register any documents submitted by the private parties. This representation made by the petitioner was rejected by the 4th respondent through the impugned proceedings dated 04.08.2020. Aggrieved by the same, the present writ petition has been filed before this Court.
- (3) The learned counsel for the petitioner submitted that the 4th respondent ought to have acted upon the Will executed in favour of the petitioner and the 4th respondent ought not to have insisted that the Will will have to be probated and only then, it can be acted upon by the 4th respondent. The learned counsel further submitted that the private parties are taking advantage of the inaction on the part of the 4th respondent and hasty steps are taken to deal with the subject property.
- (4) Per contra, Mr.T.M.Pappiah, learned Special Government Pleader accepting notice on behalf of the respondents submitted that the petitioner is claiming right over the property by virtue of a Will. The 4th respondent is not competent to test the genuineness or otherwise of the Will. Therefore, the 4th respondent was perfectly right in directing the petitioner to get the Will probated before the Competent Court. The learned counsel, therefore, submitted that there are no grounds to interfere with the orders passed by the 4th respondent.
- (5) This Court has carefully considered the submissions made on either side and the materials available on record.
- (6) In the present case, the petitioner is claiming right over the subject property by virtue of a Will dated 10.11.2019 that is said to have been executed in favour of the petitioner by her father. The petitioner wanted the 4th respondent to act upon this Will. The 4th respondent is not competent to decide upon the genuineness or otherwise of a Will and the very proof of a Will involves a special procedure under Sections 68 to 71 of the Indian Evidence Act. It requires examination of



attesting witnesses even to prove a Will. Obviously, the 4th respondent is not competent to act upon the Will unless it is authenticated by a competent Civil Court.

(7) This Court does not find any illegality in the impugned proceedings of the 4th respondent and there is no ground to interfere with the same.

(8) In the result, the writ petition is disposed of giving liberty to the petitioner to approach the competent Civil Court and work out her remedy in accordance with law. It is always open to the petitioner to seek for an appropriate interim direction if any attempts are being made to deal with the subject property and create third party rights. Except giving this liberty, no further orders can be passed in this writ petition. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

1. The Inspector General of Registration
Government of Tamil Nadu
100, Santhome High Road,
Chennai 600 028.
 2. The Assistant Inspector General of Registration
Registration Department, Coimbatore.
 3. The Deputy Inspector General of Registration
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Coimbatore 641 018.
 4. The Sub Registrar,
Office of Sub Registrar,
Thondamuthur, Coimbatore.
- +1 cc to M/s.s.Saravanan, Advocate Sr.No. 29679
+1 cc to The Government Pleader, Sr.No. 29899

WP.No.12384/2020

CP(CO)

RMP(19/10/2020)