

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.Nos.19786,19791,19797,19795,19800,
19804,19808 and 19810 of 2019
and WMP.Nos.19307,19308,19314,19316,19318,19319,19321,
19322,19325,19326,19328,19329,19331,19332,19336,19337,
21424,21418,21422,21425,21427,21432,21433 of 2019

S.Subbulakshmi

... Petitioner
in All Wps.

Vs.

1. The Joint Registrar,
Tiruppur Sub Registrar Office,
Tiruppur.

2. The District Registrar,
Tiruppur.

3. The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome, Chennai.

4. Kavitha Suresh
(R4 is impleaded vide order dated 27.08.2019 made in WMP.
No.21418 of 2019)

... Respondents
in All Wps.

W.P.No.19786 of 2019:

Prayer: Writ petition filed under Article 226 of the
Constitution of India, praying for the issuance of Writ of
Certiorari Mandamus, calling for the records of the first
respondent ending with proceedings dated 11.06.2019 in refusal
No.RFL/1 Joint Sub Registrar,Tiruppur/5/2019 and quash the same
and consequently direct the first respondent to register and
release settlement deed dated 04.06.2019.

WP No.19791 of 2019

Prayer: Writ petition filed under Article 226 of the
Constitution of India, praying for the issuance of Writ of
Certiorari Mandamus, Calling for records of the 1st respondent
ending with proceedings date 11.06.19 in refusal No. RFL/1 Joint
Sub registrar Tiruppur/9/2019 and quash the same and
consequently direct the 1st respondent to register and release
settlement deed date 04.06.19.

WP No.19797 of 2019:

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, Calling for records of the 1st respondent ending with proceedings date 11.06.19 in refusal No. RFL/1 Joint Sub registrar Tiruppur/6/2019 and quash the same and consequently direct the 1st respondent to register and release settlement deed date 04.06.19.

WP No.19795 of 2019

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, Calling for records of the 1st respondent ending with proceedings date 11.06.19 in refusal No. RFL/1 Joint Sub registrar Tiruppur/10/2019 and quash the same and consequently direct the 1st respondent to register and release settlement deed date 04.06.19.

W.P.No.19800 of 2019

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, Calling for records of the 1st respondent ending with proceedings date 11.06.19 in refusal No. RFL/1 Joint Sub registrar Tiruppur/8/2019 and quash the same and consequently direct the 1st respondent to register and release settlement deed date 04.06.19.

WP No.19804 of 2019

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, Calling for records of the 1st respondent ending with proceedings date 11.06.19 in refusal No. RFL/1 Joint Sub registrar Tiruppur/9/2019 and quash the same and consequently direct the 1st respondent to register and release settlement deed date 04.06.19.

WP No.19808 of 2019

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, Calling for records of the 1st respondent ending with proceedings date 11.06.19 in refusal No. RFL/1 Joint Sub registrar Tiruppur/7/2019 and quash the same and consequently direct the 1st respondent to register and release settlement deed date 04.06.19.

WP No.19810 of 2019

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, Calling for records of the 1st

respondent ending with proceedings date 12.06.19 in refusal No. RFL/Avinasi / 41/2019 and quash the same and consequently direct the 1st respondent to register and release settlement deed date 04.06.19.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondents: Mr.T.M.Pappiah
Special Government Pleader
Mr.R.Bharathkumar for R4

COMMON ORDER

The issue involved in all these writ petitions are common and therefore, all the writ petitions are taken up together and this common order is passed.

2. The case of the petitioner is that she has 1/4th share in all the subject properties and she wanted to execute a settlement deed in favour of her son. According to her, the settlement deed was executed and was presented for registration before the first respondent. The first respondent has refused to register the document on the ground that the original title deeds have not been produced and it was informed to the petitioner that until the same is furnished at the time of registration, the settlement deeds cannot be registered. Aggrieved by the same, the present Writ Petitions have been filed before this Court.

3. During the pendency of the Writ Petitions, the 4th respondent was impleaded in all the writ petitions on the ground that she also claims a right over the property and the original title deeds are in her possession.

4. The learned counsel appearing on behalf of the 4th respondent submitted that the petitioner does not have any right over the properties and the properties exclusively belong to the 4th respondent by virtue of a Will executed in her favour. The learned counsel submitted that in the absence of any right over the subject properties, the petitioner cannot execute a settlement deed in favour of anyone.

5. The learned Special Government Pleader appearing on behalf of the official respondents submitted that the first respondent, as a matter of procedure, has insisted for the production of the title deed, since there must be some prima facie material to establish that the petitioner has right over the properties. The learned Special Government Pleader submitted that there are no grounds to interfere with the decisions taken by the first respondent.

6. This Court has carefully considered the submissions made on either side and the materials available on record.

7. The petitioner is claiming right over the properties on the ground that the properties belong to her son and she has 1/4th share in the properties. On the other hand, the 4th respondent is claiming rights over the properties exclusively on the ground that her husband has executed a Will in favour of the 4th respondent. This is a dispute into which this Court cannot enter into in exercise of its jurisdiction under Article 226 of Constitution of India. This dispute has to be necessarily resolved only before the competent Civil Court.

8. In the present case, the petitioner wants to settle 1/4th share in the properties, in favour of her son. The mere execution of the document does not create any new right over the properties and what the petitioner can convey is only the right which she possesses and nothing more. Therefore, if the 4th respondent has any grievance and is challenging the right of the petitioner, she can always fight it out before the competent Civil Court. It is also made clear that the orders passed in these Writ Petitions will have no bearing on the rights of the parties over the subject properties.

9. In view of the above, there shall be a direction to the petitioner to resubmit the documents along with an affidavit to the effect that the original title deeds are in possession of the 4th respondent. On such submission of the documents, the first respondent shall proceed further to register the documents, if it is otherwise in order and subject to the condition that the necessary stamp duty and registration fee shall be paid. The Documents shall also be released after registration. It is again made clear that the directions issued by this Court is without prejudice to the rights of the either parties to agitate their rights before the competent Civil court.

10. All the Writ Petitions are disposed of with the above directions. Connected miscellaneous petitions are also closed. No costs.

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Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Joint Registrar,
Tiruppur Sub Registrar Office,
Tiruppur.

2. The District Registrar,
Tiruppur.

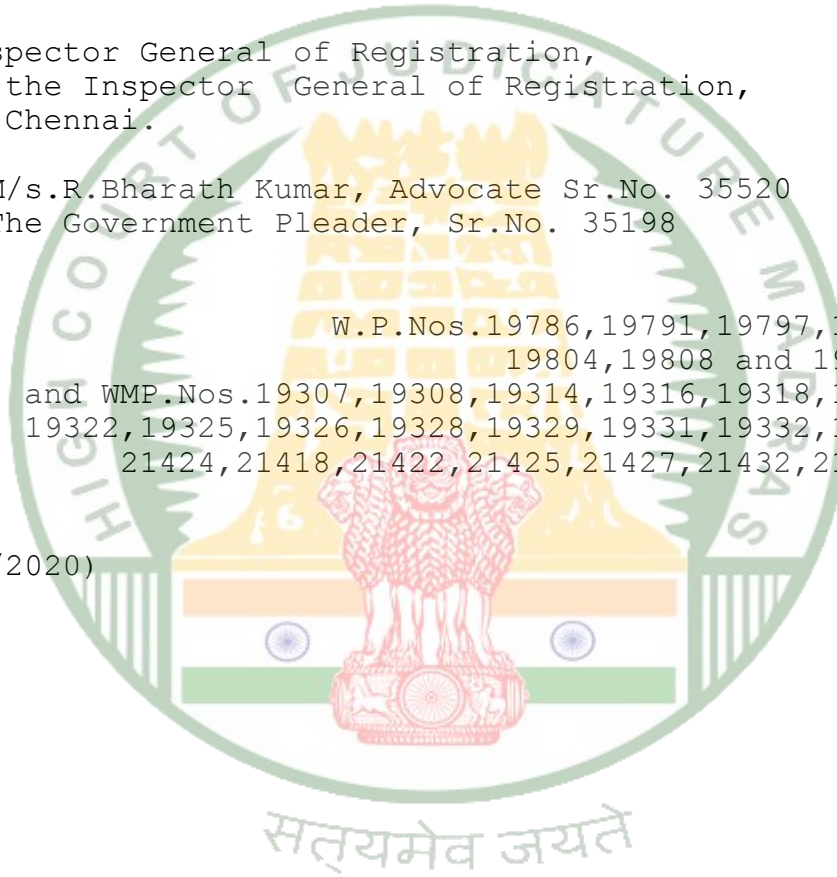
3. The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome, Chennai.

+1 cc to M/s.R.Bharath Kumar, Advocate Sr.No. 35520

+1 cc to The Government Pleader, Sr.No. 35198

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PP (CO)
RMP (08/12/2020)



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