



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.09.2020

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THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P(MD).No.12375 of 2020

H.P.Akbar Ali

.. Petitioner

Vs.

1.The Inspector General of Registration,
O/o.The Inspector General of Registration,
No.100, Santhom Salai, Chennai.

2.The District Registrar (Mahal South),
Madurai South (Mahal) Registrar Office,
Madurai.

3.The Sub Registrar,
Thirumangalam Registrar Office,
Madurai District.

4.H.P.Hyder Ali

5.Z.Pariza Begam

6.Z.Ahamed Dariq Hussain

7.Z.Ahamed Javith Rahuman

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, directing the 1st respondent to instruct the 2nd and 3rd respondents should not register any registration such as sale, gift, General Power of Attorney or any encumbrances on the petitioner property, Madurai District, Thirumangalam Corporation Old Ward No.15, at Present Ward No.19, Southern side of the Usilampatti Road, comprised in Natham Old Survey No.Letter 10/21B, Shop Building Door No.1, Ward C Block No.8, comprised in Town Survey No.269 Ward, on the basis of the petitioner's representation dated 21.08.2020.

For Petitioner : Mr.R.Sundar

For Respondents : Mr.K.Sathiya Singh for R1 to R3
Additional Government Pleader



ORDER

This writ petition has been filed for issuance of Writ of Mandamus, directing the respondents not to register any document in respect of the petition mentioned property.

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2.The case of the petitioner is that the petition mentioned property was originally in joint possession of the petitioner's father and his paternal uncle. After his father's demise, half of the property was inherited by the petitioner and his two brothers namely the fourth respondent and the fifth respondent's husband. Thereafter, they were in joint possession of the property. At this juncture, since the fourth respondent and fifth respondent's husband were in financial need, they demanded their 2/3 share from the petitioner. Therefore, the petitioner agreed to settle them a sum of Rs.32 lakhs in respect of the value of their 2/3 share and the fourth respondent and fifth respondent's husband were also agreed to execute a release deed in respect of the whole property on receipt of the above said amount. Accordingly, on 17.01.2008, the fourth respondent received a sum of Rs.5 lakhs from the petitioner for his daughter's marriage and on 03.07.2009 the fifth respondent's husband received a sum of Rs.5 lakhs for his business development. Both of them were executed a pronote for the same. Thereafter, whenever, the petitioner demanded his brothers to execute the release deed after receiving the whole consideration, they drag on the same. Finally, on 17.07.2015, after receipt of an advance amount of Rs.5 lakhs to the fourth respondent and a sum of Rs.4,25,000/- to the fifth respondent's husband, they executed an unregistered partition agreement. Thereafter, on 27.01.2016, the petitioner settle them the balance sale consideration of Rs.12,75,000/-. But, they did not execute any release deed as agreed by them in favour of the petitioner, in respect of the property. Since the fourth respondent and fifth respondent's husband are the brothers of the petitioner, by believing the words of them, he did not take any action against them for few years. But, after few years, the fourth respondent and fifth respondent's husband were trying to alienate the property to third party, by suppressing the original facts. By knowing the above fact, the petitioner demanded them to execute the release deed or to return the money. But, the fourth respondent and the fifth respondent's husband neither executed any deed nor return the money as claimed by the petitioner. At this juncture, fifth respondent's husband demised. Thereafter, fourth respondent colluded with the seventh respondent, who is the son of fifth respondent, gave life threat to the petitioner. Therefore, in order to safeguard the property, the petitioner is constrained to file an objection before the third respondent in Objection Petition No.50/2020. Thereafter, he lodged a complaint before the respondents 1 to 3 on 21.08.2020. But, so far the respondents 1 to 3 have not taken any steps against the persons. Hence, the present writ petition has been filed.



3.The learned counsel for the petitioner submitted that the fourth respondent and fifth respondent's husband cheated the petitioner. Therefore, he made an objection before the 3rd respondent.

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4.The learned Additional Government Pleader submitted that since the dispute arose between the petitioner and his brothers is civil in nature, the petitioner has to approach the civil court for his remedy.

5.Heard Mr.R.Sundar, learned counsel for the petitioner and Mr.K.Sathiya Singh, learned Additional Government Pleader, who takes notice for the respondents 1 to 3.

6.According to the petitioner, the petitioner and the fourth respondent and the fifth respondent's husband are brothers. There is a dispute between them with regard to their ancestral property. The fourth respondent and the seventh respondent, after receiving the total sale consideration amount, refused to register the release deed in respect of their 2/3 share as agreed and also trying to alienate the property and cheated the petitioner. They neither returned the amount to the petitioner nor executed the deed.

7.On perusal of the objection dated 10.08.2020, it seems that the dispute among the petitioner and his brothers are purely civil in nature. Hence, the writ petitioner has to approach the competent civil court for seeking his relief including the interim relief against the respondents. Further, the petitioner has not come within the purview of Rule 55 of the Tamilnadu Registration Rules. Considering the Rule 55 of the Tamilnadu Registration Rules, this Court decides that there is no merit in this case to entertain this writ petition, consequently, there is no prima facie case is made out to entertain the writ petition.

8.Accordingly, this writ petition stands dismissed. No costs. It is open to the petitioner to work out his remedy before the appropriate forum as permissible under law.

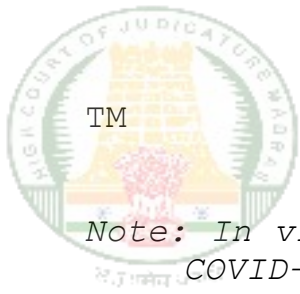
Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Inspector General of Registration,
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No.100, Santhom Salai, Chennai.
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+1 CC to SGP (SR-17868[F] dated 23/09/2020)

W.P (MD) .No.12375 of 2020

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NR (06.10.2020) 4P 5C