



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2020

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD) No.7431 of 2019

and

W.M.P. (MD) Nos.5946 and 5947 of 2019

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K.Jegan

.. Petitioner

Vs.

1.The District Registrar,  
District Registration Office,  
Nagercoil,  
Kanyakumari District.

2.The Joint Sub Registrar,  
Marthandam,  
Kanyakumari District.

3.The Joint Sub Registrar,  
Palliyadi,  
Kanyakumari District.

4.The Tahsildar,  
Villavankodu Taluk,  
Virudhunagar District.

.. Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order made by the second respondent dated 05.02.2019 in RFL/1 Joint Sub Registrar Marthandam, 2/2019 and quash the same as illegal and consequently direct the second respondent to entertain and manually register the rectification deed submitted by the petitioner within the time that may be stipulated by this Court.

For Petitioner : Mr.M.Mahaboob Athiff  
for M/s.Ajmal Associates

For Respondents : Mr.M.Murugan  
Government Advocate

**ORDER**

This Writ Petition is filed for issuing a Writ of Certiorarified Mandamus to quash the impugned order dated 05.02.2019 passed by the second respondent and consequently to direct the second respondent to entertain and manually register the rectification deed submitted by the petitioner.



2.The petitioner states that he purchased a property measuring an extent of 18 cents in Survey No.439/13B, Nallur Village, Villavankode Taluk, Kanyakumari District. It is his further case that his vendor by name Mr.Usha Mary is entitled to the said property by virtue of a settlement deed executed by her mother-in-law vide a registered instrument dated 12.03.2010. The petitioner had some difficulties when he wanted to survey the land belong to him as per revenue records. It is at that time the revenue officials, according to the petitioner, pointed out some discrepancy in the description of the property which is the subject matter of the sale deed under which he purchased the property. According to the petitioner, the survey number and the village was wrongly stated as Survey No. 754/6 in Nadalam Village instead of Survey No.439/13B in Nallur Village. Earlier, the petitioner filed a Writ Petition in W.P.(MD)No.1634 of 2015 and this Court directed the fourth respondent to consider and pass orders on the petitioner's representation within a period of four weeks. Thereafter, the second respondent by the impugned order refused to register the document of rectification submitted by the petitioner with a change in the survey number and the name of the village. Aggrieved by the order, the present Writ Petition is filed.

3.The petitioner himself has admitted that the property purchased by him as per the original document of sale was in Survey No.754/5 in Nadalam Village and the present property which is sought to be substituted by the rectification is in Survey No.439/13B in Nallur Village. The discrepancy is not only in survey number but also in the revenue village which is mentioned in the document. The further difficulty of the second respondent to entertain the application is that the registration of the earlier sale deed was by the third respondent and that the rectification deed alone has been sought to be registered before the second respondent. The contention of the petitioner is that by virtue of Section 71 of the Registration Act, he cannot present the document of rectification to be registered by the third respondent as the property does not lie within the jurisdiction of the third respondent. It is in the said circumstances, it is better if the petitioner is permitted to file a suit under Section 26 of the Specific Relief Act for rectification of the document which is originally registered by the third respondent. Since the question of *bona fides* and the identity of property has to be considered and the second respondent or third respondent is not competent to decide such complicated issue and no machinery is provided under the Registration Act, this Court is inclined to close this Writ Petition with liberty reserved to the petitioner to file a suit before the Civil Court for rectification of instrument and for other consequential and appropriate relief.



Accordingly, this Writ Petition is closed. No costs.  
Consequently, the connected miscellaneous petitions are closed.

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// True Copy //

Sd/-

Assistant Registrar (CS-I)

/ /2020

Sub Assistant Registrar (CS)

SRM

To

1.The District Registrar,  
District Registration Office,  
Nagercoil,  
Kanyakumari District.

2.The Joint Sub Registrar,  
Marthandam,  
Kanyakumari District.

3.The Joint Sub Registrar,  
Palliyadi,  
Kanyakumari District.

4.The Tahsildar,  
Villavankodu Taluk,  
Virudhunagar District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate ( SR-3284[F] dated  
28/01/2020 )

ORDER MADE IN  
W.P. (MD) .No.7431 of 2019  
27.01.2020

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