



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.11.2020

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.14958 of 2020

and

W.M.P. (MD)No.12590 of 2020

Karuppayee

... Petitioner

-Vs-

- 1.The Inspector General of Registration,
Nungambakkam, Chennai.
- 2.The Deputy Inspector General of Registration,
Madurai.
- 3.The District Registrar (Admin),
Dindigul, Dindigul District.
- 4.The Sub Registrar,
O/o. The Sub Registrar,
Kannivadi, Dindigul District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 14.09.2020 passed by the third respondent in his proceeding in Na.Ka.No.4333/A1/2020 and quash the same as illegal and consequently, direct the fourth respondent to register the Partition Deed pertaining to the Survey Nos.26/1, 26/2, 26/3, 21/2, 21/3 Mangarai Village, Dindigul West Taluk, Dindigul District to an extent of 3 Acres, 85 cents within the stipulated time as fixed by this Court.

For Petitioner	: Mr.C.Mayilvahana Rajendran
For Respondents	: Mr.K.Sathiya Singh, Additional Government Pleader.

ORDER

The petitioner has come forward with this Writ Petition to quash the impugned order dated 14.09.2020 passed by the third respondent in his proceeding in Na.Ka.No.4333/A1/2020 as illegal and consequently, direct the fourth respondent to register the Partition Deed pertaining to the Survey Nos.26/1, 26/2, 26/3, 21/2, 21/3 Mangarai Village, Dindigul West Taluk, Dindigul District to an



extent of 3 Acres, 85 cents, within the stipulated time as fixed by this Court.

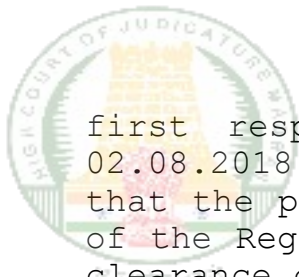
2.By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

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3.Mr.K.Sathiya Singh, learned Additional Government Pleader accepts notice on behalf of the respondents.

4.According to the petitioner, her husband, namely, Veeramuthu Mooppanar has purchased the property in Survey Nos. 26/1, 26/2, 26/3, 21/2, 21/3 Mangarai Village, Dindigul West Taluk, Dindigul District to an extent of 3 Acres, 85 cents from one Palaniyandi Pillai and his son and daughter vide Document No.628 of 1980, dated 04.06.1980 by paying valid sale consideration of Rs.10,000/- and patta stands in the name of the petitioner's husband in Patta No.693. After his demise on 04.04.2013 intestate leaving behind the petitioner and two sons and daughter, they are in possession and enjoyment of the property in question. While her husband was alive, he executed a sale agreement dated 02.02.1985 in favour of one Velusamy. As per the sale agreement, the sale consideration was fixed as Rs.45,000/- and the petitioner's husband had received a sum of Rs.1000/- as advance. In the sale agreement, it is made very clear that the sale deed should have been registered within a period of four years by paying remaining sale consideration and if the purchaser failed to adhere the above said condition, he would loss the advance amount and the sale agreement become void. Thereafter, the said Velusamy did not take any steps to adhere the above said condition. Hence, he has no right over the property in question and to file any suit for specific performance as the limitation period has expired as early as on 02.02.1988. Therefore, the petitioner, her sons and daughter have decided to partition the property in question and they have submitted a Partition Deed before the fourth respondent on 17.08.2020. However, the fourth respondent has refused to register the same on the ground that the said Velusamy has filed an objection petition, since the first respondent has already issued a circular dated 04.10.2018, directing the fourth respondent not to entertain the objection petition, unless it was filed along with valid documents. The said Velusamy has no document except the time barred sale agreement dated 02.02.1985. Therefore the petitioner has sent a representation on 21.08.2020 to the respondents 2 and 3. On receiving the same, the second respondent has directed the third respondent to consider the request of the petitioner. However, the third respondent has passed the impugned order dated 14.09.2020, rejecting the petitioner's request. Challenging the same, the petitioner has approached this Court.

5.The learned counsel appearing for the petitioner submits that the third respondent has passed the impugned order without conducting any enquiry and following the circular issued by the



first respondent and relied on the order of this Court dated 02.08.2018 made in W.P.(MD)No.2964 of 2018, wherein it is stated that the powers vested with the Registering Authority under Rule 55 of the Registration Rules do not empower the respondent to seek for clearance of the encumbrance created over the subject property.

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6. Admittedly, there is no encumbrance with regard to the property in question and that even though there was a sale agreement, which was entered into 35 years ago, no suit for specific performance was filed for giving effect to the sale agreement and that the sale agreement was made as early as 35 years ago. The Sub Registrar has refused to register the partition deed on the ground that there is an encumbrance over the property. The powers vested with the Registering Authority under Rule 55 of the Registration Rules are very limited and even assuming for the sake of arguments he has got wide power, the sale agreement was of the year 1985 and any suit for specific performance ought to have been filed within three years and there is an averment by the petitioner that no Civil Suit is pending.

7. That being the case, there is no impediment for the Sub Registrar in registering the Partition Deed presented for registration, as the period of sale agreement has already been lapsed. In view of the same, this Court has held that the Partition Deed needs to be registered. In case any suit for specific performance was filed within time and the same is pending, the present registration can easily be nullified, if the pendency of the suit is brought to the attention of the Sub-Registrar and that the third party, who may have benefit, cannot claim as a matter of right as fraud vitiates the transaction. The petitioner is entitled to re-present the Partition Deed for registration, which could be considered in accordance with Registration Rules.

8. Accordingly, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Myr

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.

<https://hcservices.ecourts.gov.in/hcservices/>



To

- 1.The Inspector General of Registration,
Nungambakkam, Chennai.

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Madurai.

- 3.The District Registrar (Admin),
Dindigul, Dindigul District.

- 4.The Sub Registrar,
O/o. The Sub Registrar,
Kannivadi, Dindigul District.

+1 CC to M/s.C.MAYIL VAHANA RAJENDRAN, Advocate (SR-20882[F] dated 03/11/2020)

+1 CC to M/s.GP (SR-20984[F] dated 03/11/2020)

Order made in

W.P. (MD) No.14958 of 2020

02.11.2020

CK(CO)

TR(19.11.2020) 4P 7C