



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD).No.26725 of 2019
in W.M.P. (MD).No.23054 of 2019

R.Ganapathi

.. Petitioner

Vs.

- 1.The Inspector General of Registration,
O/o. The Inspector General of Registration,
No.100, Santhome Highway Road,
Chennai - 600 028.
- 2.The Deputy Inspector General of Registration,
O/o. The Inspector General of Registration,
Integrated Complex of Registration Department,
St. Marks Street, Near Shankar Colony,
Behind John's Higher Secondary School,
Tirunelveli - 627 002.
- 3.The District Registrar,
O/o.The District Registrar,
Integrated Complex of Registration Department,
St. Marks Street, Near Shankar Colony,
Behind John's Higher Secondary School,
Tirunelveli - 627 002,
Tirunelveli District.
- 4.The Sub Registrar,
Gangaikondan Sub Registration Office,
Perumal Kovil Street,
Gangaikondan - 627 352,
Tirunelveli District.
- 5.Urudhamaadan

6.Sudali

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the 3rd respondent to cancel the registered settlement deed dated 26.04.2019, executed by the 5th respondent in favour of the 6th



respondent, which registered in the 4th respondent office as Document No.976/2019, by considering the petitioner's representation, dated 21.09.2019 within a time frame as fixed by this Court.

For Petitioner : Mr.K.Neelamegam
For Respondents : Mr.M.Murugan for R1 to R4
Government Advocate
Mr.T.Selvan for R5 to R6

ORDER

This writ petition is filed for issuing a writ of Mandamus directing the third respondent to cancel the registered settlement deed, dated 26.04.2019, executed by the fifth respondent in favour of sixth respondent, which is registered as document No.976 of 2019 by considering the petitioner's representation.

2.The petitioner claims a share in certain properties as one of the son of Late Ramasamy Thevar through the second wife. It is admitted that the property belonged to the petitioner's father who expired on 05.04.1998. It is the further case of petitioner that petitioner's father died leaving behind his legal heirs namely one Muthammal as his first wife and Mariammal as the second wife. The second wife of petitioner's father predeceased him and the petitioner's father had two daughters through his first wife and three sons and a daughter through second wife.

3.It is the case of petitioner that the fifth respondent who is the brother of the petitioner executed a settlement deed in favour of his wife namely the sixth respondent in respect of an extent of 75 cents comprised in various survey numbers. Apart from the land, it is also stated that the fifth respondent has also conveyed 1/3rd share in the common wall and the electrical fittings in favour of sixth respondent.

4.It is the specific case of the petitioner that there was no partition at any point of time among the legal heirs of the petitioner's father and that the fifth respondent has fraudulently claimed exclusive right in respect of certain properties of the family. Since the settlement deed was in favour of fifth respondent's wife, it is also contended that the sale is collusive and fraudulent. Assuming that the petitioner is one of the co-owner or co-parcener and he is entitled to inherit the property. The petitioner is not a party to the settlement deed stated to have been executed by the fifth respondent in favour of the sixth respondent. Hence, the document as such is not binding on the petitioner. The question of title or existence of joint family cannot be considered by the Registering authority or the third respondent. It is open to the petitioner to file a suit for



partition as one of the co-owner. Even according to the petitioner, the fifth respondent made an attempt to interfere with the rights of petitioner as co-owner.

5.It has been repeatedly held by Court that questioning the title of the person executing the document, the representation for cancellation of registration is not maintainable and the Registrar who has registered the document is not competent to cancel unilaterally the registration of the document by holding an enquiry relating to title. In this case, no prejudice is caused to the petitioner by virtue of the registration of a document conveying title by one of the co-owner. The petitioner as co-owner can ignore the document and seek partition and the cause of action has arisen to move the Civil Court.

6.With liberty to the petitioner to approach the Civil Court, this writ petition is closed. No costs. It is also made clear that the petitioner by virtue of the registration of settlement deed, dated 26.04.2019 cannot be prevented from exercising his right of ownership by transferring or dealing with the property in the manner known to law. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Inspector General of Registration,
O/o. The Inspector General of Registration,
No.100, Santhome Highway Road,
Chennai - 600 028.

2.The Deputy Inspector General of Registration,
O/o. The Inspector General of Registration,
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<https://hcservices.hcscourt.gov.in/hcservices/>



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4.The Sub Registrar,
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+1 CC to MR.K.NEELAMEGAM, Advocate (SR-5285[F] dated 07/02/2020)

+1 CC to MR.T.SELVAM, Advocate (SR-5355[F] dated 07/02/2020)

+1 CC to SPL GP (SR-5380[F] dated 10/02/2020)

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