

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2021

CORAM: JUSTICE N.SESHASAYEE

WP.No.4380 of 2021

Mrs.W.Gladys Jayanthi

... Petitioner

-Vs-

1.The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar,
Mandavelipakkam,
Raja Annamalaipuram,
Chennai-600 028.

2.The Sub Registrar,
No.246, Ist Floor,
New Military Road,
Avadi, Chennai-600 054.

3.A.Kanagaraj

.... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second respondent to cancel the Sale Deeds dated 27.11.2013 executed by S.Kirubakaran, K.Bhakya Prakash and Irudhayaraj, through their Power of Attorney namely Babu in favour of the third respondent namely A.Kanagaraj registered as Doc.Nos.14390/2013 and Doc.No.14391/2013 at Sub Registrar Office, Avadi.

For Petitioner : Mr.R.Lakshmi Narasimhan
For Respondents : Mr.T.M.Pappiah
Special Government Pleader
for RR1 &2

ORDER

The present petition is filed by the petitioner seeking a direction to the second respondent to cancel the Sale Deed dated 27.11.2013 executed by S.Kirubakaran, K.Bhakya Prakash and Irudhayaraj, through their Power of Attorney namely Babu in favour of the third respondent namely A.Kanagaraj registered as Doc.Nos.14390/2013 and 14391/2013 at Sub Registrar Office, Avadi.

2.The only grievance of the petitioner is that he seeks cancellation of certain Sale Deed dated 27.11.2013 executed by one S.Kirubakaran, K.Bhakya Prakash and Irudhayaraj in favour of the third respondent herein on the ground that the Sale

Deed was executed during the pendency of the partition suit to which, the vendors of the third respondent were parties. According to the petitioner, he was the plaintiff in O.S.No.556 of 2004 on the file of the Principal District Munsif, Poonamallee, for partition and the said suit came to be decreed on 30.06.2011. Challenging the same, the defendants therein (the vendors of the third respondent) preferred successive appeals in A.S.No.77 of 2011 and SA.No.189 of 2008 and were unsuccessful. The sale deed now in question was impugned during the pendency of the suit.

3.Heard Mr.R.Lakshmi Narasimhan, learned counsel for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader appearing for the respondents 1 & 2.

4.The petitioner has got his case absolutely wrongly. First, there is no bar for one of the co-sharers to sell his/her undivided share in any property, even during the pendency of the suit. Secondly, if any co-sharer purports to deal with the share in excess of his/her legitimate share in the property under Section 8 of the Transfer of Property Act, the transferee will obtain only so much interest in the property which such co-sharer is entitled to in law to transfer. Thirdly, petitioner's remedy is to move the concerned civil Court for passing final decree wherein, he can implead the present third respondent as a party or bring it to the notice of the civil Court about the transfer whereupon the concerned Court may order of his impleadment based on the judgment made by this Court in Rajendran Vs. Mohanambal reported in [2018 (6) CTC 483 = (2018) 8 MLJ 649].

5. In conclusion, the prayer as sought for in this Writ Petition cannot be granted and hence, the Writ Petition is dismissed. No costs.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

dn

To

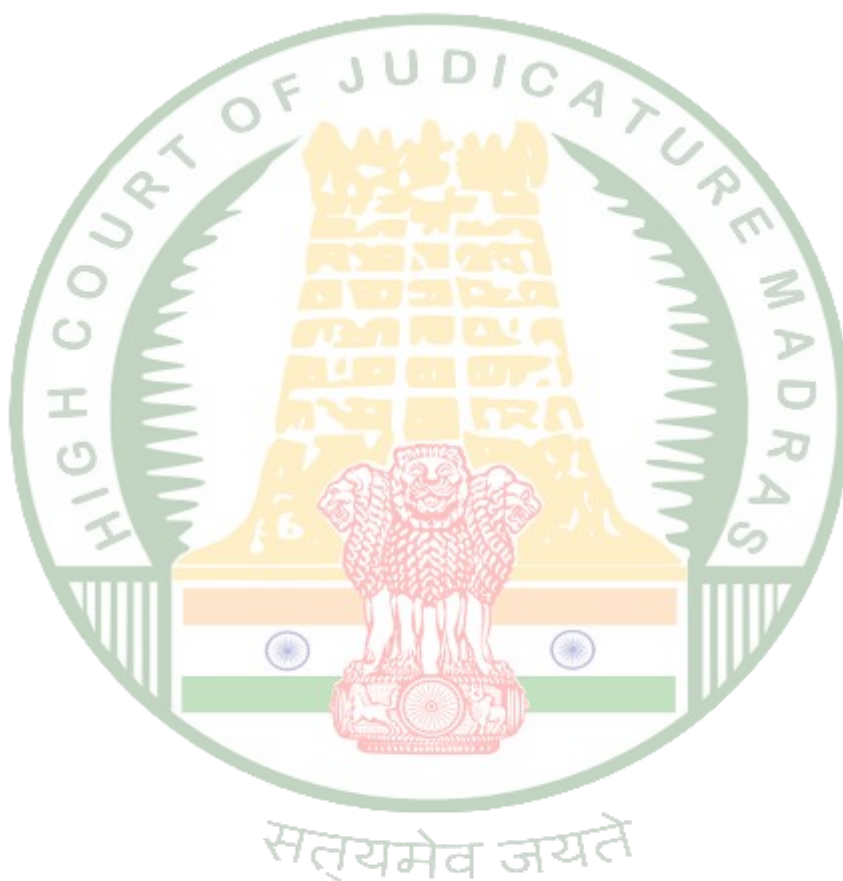
1.The Inspector General of Registration,
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2.The Sub Registrar,
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+1cc to Mr.Mr.R.Lakshmi Narasimhan, Advocate, S.R.No.12306.

W.P.No.4380 of 2021

PL(CO)
CSR 29.03.2021



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