

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.05.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 11756 of 2021
and W.M.P.No.12519 of 2021

Y.Vasanthakumari

... Petitioner

-vs-

1.State of Tamilnadu,
Rep. by Secretary to Government,
Commercial Taxes and Registration Department,
Fort St.George, Chennai - 600 009.

2.Inspector General of Registration,
Mylapore,
Santhome, Chennai - 600 004.

3.Sub Registrar,
Sowcarpet,
Chennai-600079.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the third respondent to dispense with the production of Parent Documents and admit the Settlement Document Deed executed by the petitioner and her daughter Tmt.M.Maheswari, Tmt.M.Sridevi in favour of her son Mr.Chandarasekhar in respect of $\frac{3}{4}$ undivided share with respect to House and Grounds at present Door.No.88, Old Door No.466, previously Door No.1/231, Mint Street, Chennai - 600 001 comprised in Survey No.308, Block No.0003 of an extent of 1697 Sq.ft. situated at Purasawalkam Taluk, Chennai District bounded on the North by; Sennu Street, East by Passage leading to Mint Street and property on New Door No.90, Old Door No.465, South by; Property in New Door No.2/8, Old Door No.228 in Mint Street II Lane and West by; Property in New Door No.14, Old Door No.8 in Seenu Street presented by the petitioner on the file of the third respondent and assign Permanent Document Number for the said Settlement Deed which is assigned as Pending Document No.P/Sowcarpet/42/2021, Dt.26.04.2021 and return the said Original Settlement Document with endorsement of admission for Registration to the petitioner's son M.Chandarasekhar.

For Petitioner : Mr.J.R.K.Bhavanantham
For Respondents: Mr.T.M.Pappiah
Special Government Pleader

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the third respondent to dispense with the production of Parent Documents and admit the Settlement Document Deed executed by the petitioner and her daughter Tmt.M.Maheswari, Tmt.M.Sridevi in favour of her son Mr.Chandarasekhar in respect of $\frac{3}{4}$ undivided share with respect to House and Grounds at present Door.No.88, Old Door No.466, previously Door No.1/231, Mint Street, Chennai - 600 001 comprised in Survey No.308, Block No.0003 of an extent of 1697 Sq.ft. situated at Purasawalkam Taluk, Chennai District bounded on the North by; Sennu Street, East by Passage leading to Mint Street and property on New Door No.90, Old Door No.465, South by; Property in New Door No.2/8, Old Door No.228 in Mint Street II Lane and West by; Property in New Door No.14, Old Door No.8 in Seenu Street presented by the petitioner on the file of the third respondent and assign Permanent Document Number for the said Settlement Deed which is assigned as Pending Document No.P/Sowcarpet/42/2021, Dt.26.04.2021 and return the said Original Settlement Document with endorsement of admission for Registration to the petitioner's son M.Chandarasekhar.

2.When the Settlement Deed dated 26.04.2021, executed by the petitioner and others was submitted before the third respondent for registration along with certified copies of the Parent Documents, it was insisted by the 3rd respondent-Sub Registrar Office that the originals of the parent documents shall be filed along with the documents for registration. On that ground, the Settlement Deed has not been registered and it has been kept pending at the third respondent office. Therefore, seeking the aforesaid prayer, the writ petition has been filed by the petitioner to give a direction to the third respondent to register the document in question by accepting the certified copies of the parent documents.

3.Heard Mr.J.R.K.Bhavanantham, learned counsel appearing for the petitioner, who would submit that the earlier parent document was of the year 1921-1922, since the document is of 100 years age old document, that is not available with the petitioner, and it would have been destroyed.

4. Subsequently, the only document is the Will, written by the mother of the petitioner's husband, who is none other than the grandmother of the petitioner by Will dated 03.08.1977. Thereafter, the grandmother i.e the mother of the petitioner's husband one Bramarambalammah died on 25.07.1979

and a Death Certificate has been issued by the Chennai Corporation.

5. Thereafter, an Original Petition was filed before this Court in O.P.No.552 of 1979, to probate the Will dated 03.08.1977, executed by that Bramarambalamah in favour of the petitioner's husband one Y.Mohanarangam.

6.This Court, by original side order dated 24.01.1980, has issued the probate order, where after keeping the original Will in the safe custody of the Court, Certified copy to that effect has been issued.

7. Subsequently, since the very certified copy issued by this Court also has been lost, the petitioner once again made an application before this Court and got yet another certified copy in the year 2018. That is the Will as well as the probate order dated 24.01.1980, that is the only parent document available with the petitioner and that has also been produced along with the copy of the Settlement Deed, while submitting the same before the third respondent office. Therefore, the learned counsel for the petitioner seeks indulgence of this Court to give direction to the third respondent to accept those documents, which is nothing but the Will as well as the Probate order issued by this Court. Therefore, accepting the same document in question i.e., Settlement Deed dated 26.04.2021 can be registered by the third respondent.

8.Heard Mr.T.M.Pappiah, learned Special Government Pleader, who would submit that only to avoid any fraudulent transaction and registration, the Registrar as per the Circular issued from time to time by the Inspector General of Registration, insisted upon production of the original document only for perusal and inspection and in this regard, since the petitioner has already lost the said documents, said to have been made in the year 1921 & 1922 and only document, which they relied upon is the Will dated 03.08.1977 and the Probate order dated 24.01.1980 passed by this Court. Even, in respect of those documents, since the originals have not been produced, that was insisted upon by the third respondent.

9.However, the learned Special Government Pleader submitted that since the certified copy of the Will as well as Probate order passed by this Court has been obtained by the petitioner and if the same is produced along with an affidavit, giving an undertaking before the third respondent that the transaction, which the petitioner wants to register by way of Settlement Deed dated 26.04.2021 is a genuine transaction and on accepting the said affidavit as well as the certified copy of the Will and Probate order, the needful would be done by the third respondent office.

10.I have considered the said submissions made by the learned counsel appearing for the parties and perused the

materials available on record, placed before this Court.

11.As it has been submitted by the learned counsel for the petitioner that since the Will dated 03.08.1977 has been probated by orders of this Court on 24.01.1980 in O.P.No.552 of 1979, the certified copy were obtained by the petitioner in this regard both for the Will as well as the probate order and the same are produced before the third respondent, this Court feels that there would be no further impediment for the third respondent to accept those documents and in this regard, if at all any affidavit, as submitted by the learned Special Government Pleader, is also required by the third respondent from the petitioner, that can also be filed by the petitioner and on submitting the said affidavit with the certified copy of the aforesaid document, the third respondent can very well register the Settlement Deed dated 26.04.2021, if it is otherwise in order.

12.In that view of the matter, there shall be a direction to the third respondent to accept the certified copy of the Will dated 03.08.1977 and probate order dated 24.01.1980 of this Court passed in O.P.No.552 of 1979 along with an affidavit to be executed by the petitioner and scrutinize the Settlement Deed dated 26.04.2021 and ultimately, if it is found to be in order, the same shall be registered by the third respondent. The needful as indicated above shall be undertaken by the third respondent within one week from the date of receiving those documents and obtaining affidavit from the petitioner.

13.With these directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

rst/kak

To:

- 1.The Secretary to Government,
Commercial Taxes and Registration Department,
Fort St.George, Chennai - 600 009.
2. The Inspector General of Registration,
Mylapore,
Santhome, Chennai - 600 004.

3. The Sub Registrar,
Sowcarpet,
Chennai-600079.

+2cc to Mr.J.R.K.Bhavanantham, Advocate SR.No.27185

W.P. No. 11756 of 2021
and W.M.P.No.12519 of 2021

PVS (CO)
GMY (17/05/2021)



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