



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2021

CORAM:

THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

W.P.No.16390 of 2021

Damayanthi

... Petitioner

Versus

1. The Inspector General of Registration,
Department of Registration,
Santhome Road, Mylapore,
Chennai - 600 004.

2. The District Registrar,
Kancheepuram Registration District,
Tiruvallur District,
Arasu Nagar, Thandavaraya Nagar,
Kancheepuram-631 601.

3. The Sub Registrar,
Tiruttani Sub Registrar Office,
No.311, Kutchery Street,
Tiruttani 631 209.

... Respondents

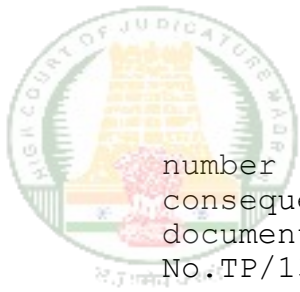
Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorified Mandamus, to call for the records of the 3rd respondent dated 08.07.2021 in refusal number RFL/Tiruttani/17/2021, quash the same and consequentially, direct the third respondent to register the document of settlement deed dated 30.06.2021 upload in temporary No.TP/13086313/2021.

For Petitioner : Mr.M.L.Ramesh.

For Respondents : Mr.Yogesh Kannadasn,
Government Advocate.

ORDER

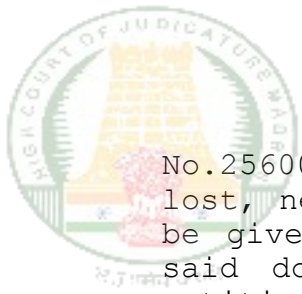
This writ petition has been filed challenging the impugned order passed by the 3rd respondent dated 08.07.2021 in refusal



number RFL/Tiruttani/17/2021 and quash the same and consequentially, direct the third respondent to register the document of settlement deed dated 30.06.2021 upload in temporary No.TP/13086313/2021.

WEB COPY

2. The case of the petitioner is that the petitioner's father purchased a property situated at Chivvada, Venkatapuram Village, Tiruttani Taluk, measuring a total extent of the acre 2.38 cents in Survey No.243/6 by way of registered sale deed dated 10.02.1995 in Document No.1536 of 1995 on the file of Sub Registrar Office, Tiruttani. Subsequently, her father died on 25.01.2006 leaving behind the legal heirs. As per the legal heir ship Certificate No.3209/2015/B2 issued by the Tahsildar, Tiruttani and peaceful possession and enjoyment of the same. As per Hindu law of succession, the petitioner is entitled for 1/5th share namely 0.46 cents out of the total extent of acre 2.38 cents and no partition has been made by the said legal heirs. The petitioner is a single lady taking care of her only daughter, who had married and settled in Malaysia. In order to settle her share upon her daughter, she decided and executed a settlement deed in favour of her only daughter on 30.06.2021 and the same was uploaded by the first respondent in temporary Registration No.TP/103086313/2021 and she had allotted the slot for registration as No.5 (D305) and necessary charges has been paid by her of Rs.2,440/- and stamp duty as determined for the market value of Rs.1,40,712/- towards registration and all the Revenue Records stands in the name of her father for the period from 01.01.1975 to 25.06.2021. Hence, she presented to register the document of settlement deed, dated 30.06.2021 but the 3rd respondent/Sub Registrar has refused to register the same on the ground that the original document which stands in the name of her father. However, she gave an explanation stating that the original document of title which stands in the name of her father and her younger brother namely Mr.Lakshmikanth and there was some misunderstanding between her and her younger brother and therefore, she is unable to produce the original document of title in the name of her father for verification of the 3rd respondent. The 3rd respondent enquired with the elder brother of the petitioner who stood as a witness in the said settlement deed presented for registration executed by the petitioner in favour of her daughter. The petitioner has presented the document in original to register the settlement deed but the third respondent refused to register the same and the third respondent issued a refusal check slip viz., RFL/Tiruttani/17/2021 dated 08.07.2021 for the reasons stated in the impugned order is (i) original document not produced, (ii) Patta/house tax receipt not produced and (iii) receipt for clearing the loan mortgaged in document No.1432 of 1976 and as per the circular issued by the 1st respondent in Circular



No.25600/C1/2018 dated 07.06.2018 and if a document is being lost, necessary police complaint with respect to the same has to be given, publication in the newspaper is to be made with the said documents registration could be entertained. Hence, the petitioner had presented the document for settling the property to her only daughter who is married and is presently residing in Malaysia and the petitioner is also staying with them permanently.

3. According to the petitioner, the third respondent for refusing to register the settlement deed executed by her in favour of her daughter are not sustainable for the reasons that she had categorically stated that the original document is not lost, but it is held by her brother with whom the petitioner has got strained relationship. The second requirement of patta had been produced before the third respondent. The third contention that the mortgage of the year 1976 has to be cleared cannot also be sustained for the simple reason that mortgage upon the property is not an hindrance for transferring the property. The petitioner has clearly stated that the mortgage deed dated 07.08.1976 registered as Document No.1432/76 already cleared and produced by a letter dated 23.08.2021 to that effect no dues are pending made by the Manager, Thiruvallaengadu Co-operative Primary Agricultural and Rural Development Bank Ltd., and the same has not been considered by the authorities. Apart from the Mortgage dated 07.08.1976, as per the law of limitation the claim by the mortgagee upon the mortgage property is only 12 years and that period has also lapsed and the authorities have not taken into consideration. Therefore, she made a representation dated 13.07.2021 before the 3rd respondent along with Revenue Records but there is no reply from the third respondent on the petitioner's representation made by her. Hence, the petitioner has come forward with the present writ petition under Article 226 of the Constitution of India.

4. The learned counsel appearing for the petitioner submitted that the petitioner will be satisfied if a direction is issued to the 1st respondent to consider the petitioner's representation dated 13.07.2021 and dispose of the same within a stipulated time that may be framed by this Court.

5. Having regard to the limited scope of the prayer that is now sought for in this writ petition before this Court and taking into account the submissions made on either side, without expressing any opinion on the merits of the petitioner's representation or the case pleaded by the petitioner in the present writ petition, the Writ Petition is disposed of, with a



direction to the 1st respondent to consider the petitioner's representation dated 13.07.2021 and pass appropriate orders, on merits and in accordance with law, after issuing notice to the petitioner and respondents within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Inspector General of Registration,
Department of Registration,
Santhome Road, Mylapore,
Chennai - 600 004.
2. The District Registrar,
Kancheepuram Registration District,
Tiruvallur District,
Arasu Nagar, Thandavaraya Nagar,
Kancheepuram-631 601.
3. The Sub Registrar,
Tiruttani Sub Registrar Office,
No.311, Kutchery Street,
Tiruttani 631 209.

+lcc to M/s.M.L.Ramesh, Advocate Sr.44968
+lcc to the Government Pleader Sr.45517

W.P.No.16390 of 2021

nk[co]
srg 22/10/2021