



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No.18546 of 2021

R. Pramila

... Petitioner

-Vs-

1. The Inspector General of Registration,
Santhome High Road,
Chennai-600028.

2. The District Registrar (Admin) (AIG)
Vellore-632001.

3. The Joint Sub-Registrar-I,
Vellore-632001

... Respondents

PRAYER: This Petition is filed under Article 226 of the Constitution of India, praying for the issue a Writ of Certiorarified Mandamus by calling for the records pertaining to the impugned order passed in Registration Refusal No. 01/APP/2021 dated 27-04-2021 passed by the 3rd Respondent and to quash the same and consequently to direct the 3rd Respondent to register the document bearing Pending Document No. 74/APP/2021 dated 20-04-2021.

For Petitioner :: Mr.Adithya Varadarajan

For Respondents :: Mr. Yoghesh Kannadasan
Government Advocate

O R D E R

The petitioner has filed the present Writ Petition for issuance of Writ of Certiorarified Mandamus by calling for the records pertaining to the impugned order passed in Registration Refusal No. 01/APP/2021 dated 27-04-2021 passed by the 3'd Respondent and to quash the same and consequently to direct the 3 Respondent to register the document bearing Pending Document No. 74/APP/2021 dated 20-04-2021 within a reasonable time as stipulated by this Court and pass orders accordingly.



2. The case of the petitioner is that the petitioner's mother namely Late K. Rukmini and father Late. N. Krishnan had 3 daughters including the petitioner herein and a son. The petitioner's mother had predeceased her father on 12-01-2011, and her father has passed away on 07 10-2020. It is pertinent to note that both had died intestate and that all the 4 children are entitled to 1/4th share equally in the properties left behind by them. The petitioner's mother had self-acquired certain properties during her lifetime out of her own income and the same came to be registered and the details of the same are set hereunder:

S.No.	Document No.	Name of SRO	Present Value
1	2794/1993	Sub-Registrar, Vellore.	30,00,000/-
2	640/2000	Sub-Registrar, Vellore	26,11,000/-
3	5451/2002	Sub-Registrar, Vellore	24,16,000/-

Further, the petitioner's father during his lifetime had also purchased many properties and the same were registered and the details of the same are set hereunder:

S.No.	Document No.	Name of SRO	Present Value
1	1800/1981 & 3434/1983	Sub-Registrar, Vellore.	32,00,000/-
2	982/1983	Sub-Registrar, Vellore	13,00,000/-
3	2295/1998	Sub-Registrar, Vellore	32,00,000/-
4	274/1986 & 2024/2000	Sub-Registrar, Vellore	12,91,000/-
5	5337/2002	Sub-Registrar, Vellore	24,16,000/-
6	2033/2008	Sub-Registrar, Vellore	55,00,000/-
7	4566/2008	Sub-Registrar, Vellore	30,00,000/-

the value of the properties purchased and owned by the petitioner's parents are Rs. 2,79,34,000/- (Rupees Two Crores Seventy Nine Lakhs Thirty Four Thousand only). As a legal heir, the petitioner is entitled to 1/4th share in the above-mentioned properties totaling a value of Rs. 69,83,500/- (Sixty nine lakhs



eighty three thousand and five hundred only). All the original documents of the above-mentioned properties are with the petitioner's brother N.K Jayaprakash, with whom she has a strained relationship. Hence, apprehending the possibility of her share in the property being misused, the petitioner had decided to execute a settlement deed in favour of her husband A.K Ravi, bequeathing her 1/4th share in the property in his favour. One of her sisters, Anagha Sree had settled her 1/4th share with respect to certain properties in favor of her brother N.K Jayaprakash and the same was registered as Document No. 670/2021 dated 22-01-2021, on the file of the 3rd Respondent herein. Further it came to understand that the petitioner's other sister Sarala, has also settled her 1/4th share in respect of certain properties in favor of her brother N.K Jayaprakash. Under such circumstances, the petitioner had presented the settlement deed for registration with the 3rd Respondent on 12-04-2021. The 3rd Respondent had kept her document as Pending enquiry and had issued a check-slip dated 12-04-2021, stating that the original parent documents were required to be produced for verification and for registering the settlement deed. In this regard, the petitioner showed the Judgments passed by this Hon'ble Court to the 3rd Respondent on 16-04-2021 highlighting the fact that the original parent documents can not be insisted upon for the registration of the settlement deed. In the interregnum, on 16-04-2021, the petitioner had made a representation to the 1st Respondent seeking for to direct the 3rd Respondent to register the settlement deed without insisting on the production of the original parent documents. On 03-05-2021, the 1st Respondent had written to the 2nd Respondent in letter No.15549/C1/2021 marking a copy to the Petitioner, not to insist on the production of the original parent documents and further directed the registration of document, if otherwise it was in order. In the meanwhile, the 3rd Respondent had issued the impugned order dated 27-04-2021 in Document Refusal No 01/APP/2021 rejecting and returning the petitioner's document for registration on the ground that the original parent documents have not been produced. The order was provided for an appeal remedy with the 2nd Respondent. Challenging the correctness of the impugned order passed by the 3rd Respondent, the petitioner had preferred an appeal with the 2nd Respondent on 17-05 2021. Till date the 2nd Respondent has not passed any orders on the same, despite making several representations and considering the directions issued by the 1st Respondents dated 03-05-2021. Since the 2nd Respondent had not passed any orders, the petitioner was constrained to prefer a representation with the 1st Respondent on 30-06-2021. Based on his representation no action or orders have been passed till date and the Respondents have flagrantly violated the Judgments passed by this Hon'ble Court and the duty enjoined upon them to act in a non-arbitrary manner. Though the impugned order



provides for an appeal, and the same having been resorted to by the petitioner herein, and since no orders have been passed by the 1st and 2nd Respondents, having no other efficacious or alternative remedy, the petitioner is constrained to approach this Hon'ble Court to exercise its extra-ordinary jurisdiction under Article 226 of the Constitution of India, challenging the impugned order made in Registration Refusal No. 01/APP/2021 dated 27-04-2021, passed by the 3rd Respondent rejecting and returning Pending Document No. 74/APP/2021 presented by her for registration on 12.04.2021.

3. The learned counsel for the petitioner would submit that the impugned order dated 27-04-2021, passed by the 3rd Respondent is arbitrary and against the settled principles of law. The impugned order passed by the 3rd Respondent is against the directions passed by the 1st Respondent in letter no. 15549/C1/2021 dated 03-05-2021.

4. It has been further submitted that the 3rd Respondent has over-looked the decision of this Hon'ble Court reported in "2021 (2) CTC 5262 and 2011 (2) LW 648". This Hon'ble Court in a catena of judgments has held that the registration of a document cannot be refused on the ground that the original parent documents have not been produced. The 3rd Respondent has erred in relying upon Circular No.25600/C1/2018 dated 07-06-2018 and 13-06-2018 as the 1st respondent had already issued circulars not to insist upon the production of the parent documents when the original documents are in the possession of one co-owner.

5. The learned counsel for the petitioner would further submit that the 2nd Respondent has failed its statutory duty in not directing the 3rd Respondent to register the settlement deed in light of the communication sent by the 1st Respondent dated 03-05-2021. The 2nd Respondent has also not passed any orders based on the appeal preferred against the impugned order. Hence, this Court may be pleased to call for the records pertaining to the impugned order dated 27.04.2021 in Registration Refusal No.01/APP/2021 dated 27.04.2021 passed by the 3rd respondent and to quash the same and pass orders accordingly.

6. The learned Government Advocate appearing for the respondents would submit that as the petitioner is having equal share in the said property among other legal heirs, the petitioner can execute her share i.e. 1/4th share to her husband's favour. Further, the 1st respondent has already directed the 3rd respondent to register the settlement deed without insisting on the original documents since the 1/4 share of the property belonged



to the petitioner herein. Hence, the respondents may be directed to register the settlement deed executed by the petitioner herein in her husband favour.

7. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent as well as perused the material available on records.

8. Having considered the facts and circumstances of the case and submissions made by the learned counsel on either side, this Court is of the view that the original documents are in the custody of the petitioner's brother and further 3 shares have been settled in favour of the petitioner's brother. Under such circumstances, the 1st respondent has also communicated to the 3rd respondent not to insist on the production of the original parent documents. Thereafter, neither the 2nd respondent nor 1st respondent has passed any orders on the appeal against the impugned order passed by the 3rd respondent and representations filed by the petitioner herein. It is admitted fact that the original documents have been required to ensure the parties who are title over the property and to avoid multiplicity proceedings with regard to registration of documents. Further, producing of the original documents on registration of the documents is not contemplated in the prescribed Law. While being so, the petitioner shall produce the certified copy of the parent documents and other related documents required for the registration of Settlement Deed before the Registering Authority. After receipt of the certified copies of the original parent documents, the 3rd respondent shall register the settlement deed executed by the petitioner herein in her husband favour in accordance with law within a period of three months from the date of receipt of copy of this order.

9. With the aforesaid directions, the Writ petition is allowed. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Lbm
To:

1. The Inspector General of Registration,
Santhome High Road, Chennai-600028.



2. The District Registrar (Admin) (AIG)
Vellore-632001.

3. The Joint Sub-Registrar-I,
Vellore-632001.

+2cc to Mr.A.E.Ravichandran, Advocate Sr.44850
+1cc to the Government pleader Sr.45511

W.P. No.18546 of 2021

gpl[col]
srg 16/11/2021