



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2021

WEB COPY

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.19446 of 2021
and
W.M.P.No.20740 of 2021

Mr.A.K.Muthukumar

...Petitioner

Vs.

The Sub Registrar,
Palladam Registrar Office,
Tirupur District.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the proceedings of the respondent relating to Refusal Check Slip in RFL/Palladam/9/2021 dated 30.07.2021 and to quash the same for a consequential direction to the respondent to register the sale deed dated 30.07.2021.

For Petitioner : Ms.Revathi Manivannan

For respondent : Mr.K.M.D.Muhilan
Government Advocate

ORDER

This writ petition has been filed for a certiorarified mandamus to quash the proceedings of the respondent relating to Refusal Check Slip in RFL/Palladam/9/2021 dated 30.07.2021 and for a consequential direction to the respondent to register the Sale Deed.

2.The case of the petitioner is that as per Partition Deed "A" schedule property was allotted to Mr.Sami Gounder and "B" schedule property measuring an extent of 4.64 acres bearing S.No.253/2 Sukkumpalayam Village, Palladam Taluk, Panchayat Union was allotted to Mr.Muthusamy Gounder and from the date of partition, both Mr.Muthusamy Gounder and Mr.Sami Gounder were in possession and enjoyment of their respective shares.



3.The petitioner submits that Mr.Muthusamy Gounder died as intestate on 29.12.2009 leaving behind his sons viz., Mr.Palanisamy, Mr.Saminathan and his wife Mrs.Deivathal to succeed his estate.

WEB COPY

4.The petitioner submits that Mr.Palanisamy's minor daughter Baby P.D.Kirubashini through her mother Mrs.Dhanalakshmi has filed a civil suit in O.S.No.329 of 2011 against Mr.Palanisamy, Mr.Saminathan, Mrs.Deivathal and the Sub Registrar, Palladam before the District Munsif Court, Palladam for partition and division of the suit schedule property into 9 equal shares by metes and bounds with reference to good and bad soil and allot 2 such contiguous shares to the plaintiff in separate possession of their shares so allotted and granting permanent injunction against the Sub Registrar of Palladam from in anyway registering any documents submitted by Mr.Palanisamy, Mr.Saminathan, Mrs.Deivathal in respect of the plaintiffs 2/9th share in the suit properties with obtaining any prior permission from the Court.

5.The petitioner further submits that the minor Daughter of Mr.Palanisamy through her mother had also filed I.A.No.1743 of 2011 in O.S.No.329 of 2011 against Mr.Palanisamy, Mr.Saminathan, Mrs.Deivathal and the Sub Registrar of Palladam before the District Munsif Court, Palladam seeking for temporary injunction restraining the respondents, their men, agents, servants, assigns etc. from in any manner alienating or encumbering the schedule property i.e. pending disposal of the suit.

6.The petitioner submits that the order passed by the District Munsif Court, Palladam dated 12.01.2012 is extracted hereunder:

"At Present, the court is of the opinion that at least the alleged 2/9th share of the minor Plaintiff in the petition mentioned property should not be encumbered till a final adjudication is taken. In the said perspective balance of convenience is only in favour of the petitioner. If injunction is not granted it may result in multiplicity of proceedings. Hence this petition is allowed."

7.The petitioner further submits that another suit was filed by Mrs.Dhanalakshmi and her minor daughter in O.S.No.330 of 2011 before the District Munsif Court, Palladam for maintenance from her husband Palanisamy and to create a charge over his 2/9th share which is an extent of 1.69 per acre in S.F.No.253/2 in Sukkampalayam Village.



8.The petitioner submits that the common order passed by the District Munsif Court, Palladam dated 21.12.2018 is extracted hereunder:

O.S.No.329/2011

"In result the suit is partly decreed and a preliminary decree is passed that the Plaintiff is entitled to 2/9th share in the suit properties and the Defendants 1 to 3 are directed to put the plaintiff in possession of 2/9 share of the suit properties in 2 months otherwise the plaintiff is directed to proceed in accordance with law considering the relationship of parties they are directed to bear their own cost. The suit against D4 is hereby dismissed."

O.S.No.330/2011

"In the result, the suit is partly decreed. The defendant is directed to pay a maintenance amount of Rs.2,000/- and a sum of Rs.6,000/- per annum towards medical expenses to each plaintiff from the date of the suit. The Defendant is to pay the 1st Plaintiff said sum till she attains majority and to the 2nd Plaintiff till her life time with respect to the creation of charge over the share of Defendant in the suit property. The suit is dismissed."

9.According to the petitioner, Mr.Palanisamy and his family members had sold 7/9th shares of the suit property to four members viz., Mr.Marudhachalam, Mr.Ramesh, Mr.Bhagiridh and Mr.Senthil Kumar but retained the share of Mrs.Dhanalakshmi and his minor daughter by complying with the orders passed by the Court in I.A.No.1743 of 2011 in O.S.No.329 of 2011.

10.The petitioner submits that Mr.Marudachalam, Mr.Ramesh, Mr.Bhagiridh and Mr.Senthil Kumar had sold the extent of 1225 sq.ft vide Sale Deed dated 14.09.2012 to one Mr.Thangarajan, the said Thangarajan had sold the schedule property to the petitioner vide Sale Deed dated 04.12.2019 registered as Document No.15975 of 2019 before the SRO, Palladam.

11.The petitioner further submits that thereafter on 30.07.2021, he wanted to sell the above extent of 1225 sq.ft. to Mrs.Divyashree for a value of sale consideration and the Sale Deed was presented before the respondent for registration, the respondent has refused to register the said Sale Deed by stating that an injunction order passed in I.A.No.1743 of 2011 in O.S.No.329 of 2011 is subsisting in so far as 2/9th share in S.No.253/2b, Sukkumpalayam Village is concerned.

12.The petitioner has no other alternative remedy except to approach this Court under Article 226 of the Constitution of India. Hence, the writ petition filed.



13.The learned Government Advocate for the respondent submits that if they produce all the relevant documents before the Authorities to prove the said earlier transactions with regard to how derived the title from the said defendants, the Authorities will pass appropriate orders.

14.Heard, learned counsel for the petitioner and the learned Government Advocate for the respondent and perused the materials available on record.

15.On going through the typed set of papers, it is seen that since no other documents have been produced before this Court as the Sale Deed do not contain the details regarding the sale between Thangarajan and the petitioner.

16.In view of the above facts and circumstances of the case and considering the submission made by the petitioner as well as the learned Government Advocate for the respondent, this Court directs the petitioner to place by producing all the relevant documents and also copies of the judgment and decree passed by the District Munsif Court, Palladam before the Authority to prove that only 7/9 share is granted in favour of the defendants in the suit as share of the defendants. After producing all the relevant documents, the said Authority viz., the Registrar is hereby directed to register the same if everything is in order and in accordance with law within a period of twelve from the date of receipt of a copy of this order.

17.With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

pam
To

The Sub Registrar,
Palladam Registrar Office,
Tirupur District.

+2ccs to M/s.Revathi Manivannan, Advocate, Sr.47013
+1 cc to the Government Pleader, Sr.No.47201

W.P.No.19446 of 2021

PM[co]
NSK 25/11/2021