

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.Nos.17150 & 15663 of 2018
and WMP.Nos.20413 & 18600 of 2018

A. Abdullasa

... Petitioner
in W.P.No.17150 of 2018

M.Periyasamy

.... Petitioner
in W.P.No.15663 of 2018

..Vs..

1. The Inspector General of Registration
Inspector General Office
No.120, Santhome High Road,
Chennai 600 026.

2. The District Registrar
Villupuram.

3. The Sub Registrar
Sub Registrar Office
Sankarapuram.

4. K. Seethalakshmi

5. C. Kannan

.... Respondents in
both writ petitions

5. K. Karthikeyan

.... Respondent in
W.P.No.15663 of 2018

6. Minor K. Raghunath

.... Respondent in
W.P.No.17150 of 2018

Prayer in W.P.No.17150 of 2018:- This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the third respondent pertaining to the check slip dated

30.04.2018 and quash the same and consequently direct the third respondent to register and release the sale deed dated 27.04.2018 in respect of the land situated in S.F.No.94/8, Ramarajapuram Village, Sankarapuram Taluk, Villupuram District.

Prayer in W.P.No.15663 of 2018:- This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the third respondent pertaining to the Check slip dated 30.04.2018 and quash the same and consequently direct the third respondent to register and release the Sale deed dated 27.04.2018 in respect of the land situated in S.F.Nos.23/3, 23/4, 23/5, 29/14A, 87/13, 87/9 & 77/10, Manjaputhur Village, Sankarapuram Taluk, Villupuram District.

For Petitioners : Mr.P.Valliappan
in both writ petitions

For Respondents : Ms.A.Madhumathi
Special Govt.Pleader for R1 to R3
in both writ petitions

Mr.K.R.Gnanasekar for R4 & R5
in W.P.No.15663 of 2019

Mr.V.Janardhanan for R6
in W.P.No.15663 of 2019

Mr.V.Janardhanan for R5
in W.P.No.17150 of 2018

C O M M O N O R D E R

The prayer in these writ petitions is for issuance of a Writ of Certiorarified Mandamus calling for the records of the third respondent pertaining to the check slip dated 30.04.2018 and quash the same and consequently direct the third respondent to register and release the two sale deeds dated 27.04.2018 in respect of the land situated in S.F.No.94/8, Ramarajapuram Village, Sankarapuram Taluk, Villupuram District and in respect of the land situated in S.F.Nos.23/3, 23/4, 23/5, 29/14A, 87/13, 87/9 & 77/10, respectively in Manjaputhur Village, Sankarapuram Taluk, Villupuram District.

2. The brief facts necessary for disposal of the writ petitions are as follows:

The properties which are the subject matter of these writ petitions are also the subject matter of a registered partition deed dated 30.03.1989. One Govinda Konar, entered into a partition with his two brothers. It is admitted that the said

Govinda Konar was allotted certain properties which are the subject matter of these two writ petitions. It is stated by the petitioner that the children of the said Govinda Konar by name one Annammalai and Kamatchi executed a registered power of attorney deed in favour of one Kannan by document dated 21.09.2010. The power of attorney agent in turn executed a sale deed in favour of Tmt. K.Seethalakshmi/the fourth respondent on 24.03.2011. Again the said power of attorney agent executed three other sale deeds in favour of Thiru.K.Karthikeyan/the fifth respondent in respect of some other properties on 26.03.2012. The petitioners in these writ petitions have purchased the properties which are the subject matter of these writ petitions independently under two different sale deeds dated 27.04.2018. The fourth and fifth respondents in these writ petitions executed two different sale deeds in respect of the properties which are the subject matter of these writ petitions in favour of the respective petitioners. When the document of sale was presented for registration the Sub Registrar, Sankarapuram/the third respondent herein by the impugned check slip dated 30.04.2018 refusing to register the documents on the basis of the objections raised by the 6th respondent, who claimed title to the properties on the basis of a Will alleged to have been executed by Govinda Konar, the father of the petitioners predecessors in interest.

3. Though the learned counsel appearing for the petitioners submitted that the properties are the ancestral properties as they belonged to said Govinda Konar and his two children, this Court is unable to accept the contention without proof of several facts to claim the character of the property as ancestral. However the impugned check slip dated 30.04.2018 refusing to register the document is illegal as the Registrar is not vested with such power to decide the title of a person executing the document.

4. This Court has repeatedly held in several cases that registration of documents cannot be refused by Registrar unless the situation warrants as contemplated under Sections 71 & 72 of the Registration Act or under Section 22 (A) of the Registration Act. Though the Registrar under the Registration Act is empowered to conduct enquiry with regard to identity of person executing a document/instrument as contemplated under Section 33 of Registration Act read with Rule 55 of the Rules framed under Registration Act, the Registrar cannot refuse to register the document on the basis of objections raised by a rival claimant, who has different source of title. If the petitioner satisfies the Registrar as to what is required in law to register the document, the Registrar shall not dwell upon the issues, which are not within the scope of Registration Act or within his power. It is also to be noted that the documents presented by

the petitioners in these cases were executed on 27.04.2018. As a matter of fact, the petitioners are subsequent purchasers. The dispute appears to be between the persons claiming under Govinda Konar on the basis of Will alleged to be executed by Govinda Konar and the children of Govinda Konar, who are entitled to get the property by succession. The document that was executed by the children of Govindan earlier on 24.03.2011 and 26.03.2012 were accepted for registration without any query/or objection. The petitioners have purchased the property from the persons who have purchased the property from the heirs of Thiru.Govinda Konar. It is not appropriate to doubt the bonafides of the transaction after allowing the previous documents to be registered in the manner known to law.

5. The learned counsel appearing for the sixth respondent in W.P.No.15663 of 2018 submitted that a suit is pending and that therefore there cannot be a direction to the Sub Registrar to register the document. Having regard to the reasons stated above to set aside the order of Sub Registrar namely the third respondent, the contention of the petitioners cannot be countenanced. The disputed question of title cannot be allowed to be decided by the Registration authority exercising its power or jurisdiction under the Registration Act. As pointed out by this Court in several judgments the impugned order of refusal to register the document cannot be justified. Therefore the writ petitions are allowed. Impugned order passed by the third respondent is set aside and the third respondent is directed to register the sale deed and release the sale deed presented on 27.04.2018 or to be presented pursuant to their order within a period of two weeks from the date of receipt of a copy of this order.

6. This direction or order enabling the petitioners to get documents registered will always be subject to the outcome of the Civil Suit, where the dispute regarding the title is subjudice. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dpq

1. The Inspector General of Registration
Inspector General Office
No.120, Santhome High Road,
Chennai 600 026.

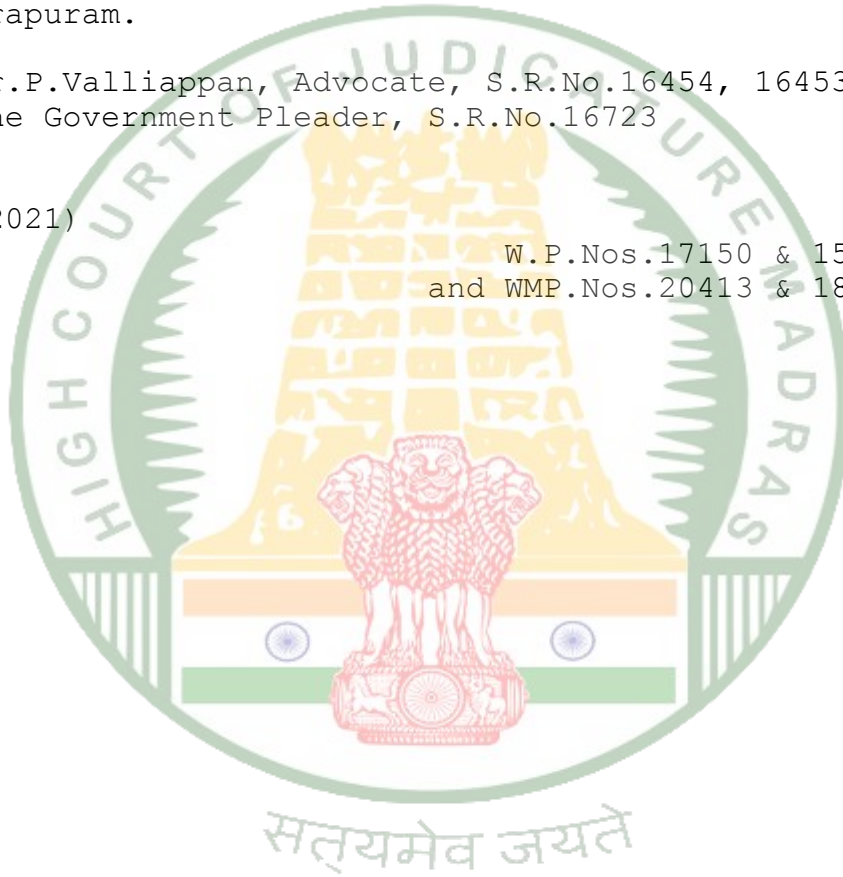
2. The District Registrar
Villupuram.

3. The Sub Registrar
Sub Registrar Office
Sankarapuram.

+2cc to Mr.P.Valliappan, Advocate, S.R.No.16454, 16453
+1cc to the Government Pleader, S.R.No.16723

PCH(CO)
CB(09/04/2021)

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