

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2021

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NO.21262 OF 2021

K.Vinayagamoorthy

.. Petitioner

Versus

1. The Inspector General of Registration,
Office of Inspector General of Registration,
Santhome High Road,
Chennai - 600 028.
2. The District Registrar,
Thiruppur District,
Thiruppur.
3. The Sub-Registrar,
Dharapuram Sub-Registration District,
Dharapuram.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 3rd respondent to release the documents registered on 12.06.2020 vide Doc. No.P/Dharapuram/21/2020 within the specify period.

For Petitioner : Mr.Babu Rajendran

For Respondents : Mr.Yogesh Kannadasan

ORDER

This Writ Petition is filed for issuance of a Writ of Mandamus directing the 3rd respondent to release the documents registered on 12.06.2020 vide Doc. No.P/Dharapuram/21/2020.

2. The case of the petitioner is that the property comprised in Old Survey No.514 old R.S. No.514/5 and new R.S. No.552 an extent of 5.05.00 of Chithararuthanpalayam village, Dharapuram

Taluk, Tirupur District, originally belonged to one Deivasikamani Gounder. The said Deivasikamani Gounder executed a registered Will on 09.06.1652 vide Doct. No.20/1652 bequeathing his property to his wife Seethaiammal towards life estate and vested remainder to his daughters namely Palaniammal, Krishnammal, Kaliammal and Saraswathiammal. It is stated that after the death of Deivasikamani Gounder, his wife Seethaiammal becomes the owner and she has been in exclusive possession and enjoyment of the property. It is further stated that during the life time of the said Seethaiammal, her daughters without her consent and knowledge have executed a registered partition on 27.03.1972 vide Doct. No.539/1972. It is further stated that in continuation of the alleged partition deed dated 27.03.1972, one of the daughter namely Krishnammal executed a sale deed in favour of one Gopal and his brother Ramakrishnan on 25.08.1980, in respect of S.No.514/5 to an extent of 12.50 Ares.

3. It is stated that on 02.02.1979, Seethaiammal received a copy of a notice in Form No.7 under Tamil Nadu Land Reforms (FCL) Act, 1961, calling for objection under Section 10(5) of the Act. Hence, she filed her objection and after due enquiry, an order was passed on 08.05.1979 by the Assistant Commissioner (Land Reforms) Erode. It is further stated that against the said order, the land owner filed an appeal before the Land Tribunal (Principal Sub-Judge), Erode in LTA No.26/1979 and the said Appeal was dismissed on 27.11.1991. Aggrieved by the orders of the land Tribunal, the land owner filed Civil Revision Petition in C.R.P. No.425 of 1982 before this Court and this Court by its order dated 13.07.1989 allowed the Civil Revision Petition and remitted the case back to the Land Tribunal. It is stated that after conducting enquiry, the District Revenue Officer (Land Tribunal) passed orders on 29.06.1987, confirming the orders passed by the Assistant Commissioner (Land Reforms) Erode on 08.05.1979. Against the orders passed by the Land Tribunal, the land owner again filed a Civil Revision Petition before this Court which was later transferred to Tamil Nadu Land Reform Special Appellate Tribunal. The said Tribunal enquired the matter and once again remitted back the same to the Assistant Commissioner (Land Reform) Erode on 01.02.1994 to redetermine the holdings of the land owner on par with survey numbers mentioned by the Settlement Tahsildar. Against the said order, the land owner filed a Special Leave Petition before the Hon'ble Supreme Court of India in SLP (c) No.11654 of 1994 and the same was dismissed on 02.01.1995. It is further submitted that as per the orders passed by the Tribunal on 01.02.1994, an extent of 7.50 acres of land which does not belong to the land owner as mentioned in the orders of the Settlement Tahsildar, was deleted from the holdings of the Land Owner.

4. It is submitted that final statement was published in Tamilnadu Government Gazette on 16.12.2005 under Section 12 of the Act and notification under Section 18(1) was published in Tamilnadu Government Gazette on 14.02.2006. It is further submitted that the purchasers namely Gopal and Ramakrishnan filed a Revision Petition challenging the 18(1) notification before the Land Commissioner in respect of Survey No.514/5 (New Survey Number 552) to declare the entire land ceiling proceeding as unlawful and void. After enquiry, the Land Commissioner directed the Assistant Commissioner (Land Reforms), Erode, to pass an order under Section 23(2) of the Act, after taking into account all the sales made by the land owner and to issue necessary amendment to final statement under Section 12 and notification under Section 18(1) of the Act. It is stated that the Assistant Commissioner (Land Reforms), Erode, by his proceedings dated 23.11.2012, stated that the land owner Seethaiammal shall continue to be in surplus area and also observed that sale covered by Doct. No.2572/1980 in favour of Gopal and Ramakrishnan was void. The revision petition challenging the proceedings dated 23.11.2013 was also dismissed by order dated 02.09.2014.

5. It is submitted that the petitioner's mother has executed a power deed before the third respondent on 12.06.2020 in favour of one Ragupathy to an extent of 9 acre 42 cents in R.S. No.552 and the said document is pending before the third respondent vide P20/2020. The contention of the petitioner is that the third respondent ought to have released the above documents but it is still pending for years. It is further submitted that on the basis of alleged sale deed, the said Gopal entered into a partition deed and the same was registered as Doct. No.1836/2005. It is further submitted that the documents executed by the petitioner's mother was presented and registered by the third respondent on 12.06.2020 and despite the requests made by the petitioner, the third respondent refused to release the documents. Hence, the petitioner filed this present writ petition.

6. Learned counsel for the petitioner submitted that once the competent authority declared that partition deed and sale deed vide Doct. No.2572/1980 as void, the registering Authority has no right to retain the document executed by the owner. He further submitted that the first respondent by his circular under letter No.20217/U1/2021, specifically stated that the genuine owner of the property should be allowed to proceed with further registration irrespective of the fraudulent registration with respect to the said property.

7. Learned Government Advocate appearing for the respondent produced before this Court the letter of the third respondent dated 27.10.2021. In the letter of the third respondent it is stated that a case is pending in O.S. No.174 of 2020 and I.A. No.339 of 2020 before the District Munsif Court, Dharapuram, with regard to R.S. No.552 and that the documents are kept pending for verification.

8. Considering the facts and circumstances of the case, this Court is of the view that since there is a case pending before the competent Court with regard to R.S. No.552, the said documents cannot be released, at this point of time. However, it is open to the petitioner to verify the same with the competent Civil Court.

9. Accordingly, this writ petition is dismissed with liberty to the petitioner to approach the authorities based on the said information received by him. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration,
Office of Inspector General of Registration,
Santhome High Road,
Chennai - 600 028.
2. The District Registrar,
Thiruppur District,
Thiruppur.
3. The Sub-Registrar,
Dharapuram Sub-Registration District,
Dharapuram.

+1cc to M/s.J.Hariharan, Advocate, S.R.No.55798

+1cc to the Government Pleader, S.R.No.56224

W.P.No.21262 of 2021

VSNIIC(CO)

RLP(31/01/2022)