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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2021

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THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A.No.2537 of 2021

S.Roseline

.. Appellant/Petitioner

Vs.

1. The Inspector General of Registration,
Office of the IG, Registrations,
Santhome, Chennai.
2. The District Registrar,
Office of the DR,
Saidapet, Chennai.
3. The Sub Registrar,
SRO's Office, Tambaram.
4. M.Shakunthala
5. G.Bhuvaneswari
6. Mumoorthy Avenue Welfare Association
rep. by its President Mr.GaneshaPrakash,
Office at No.4/98, Krishna Nagar Main Road,
Lydia School, Mumoorthy Avenue,
Kaspapuram, Chennai-600 126.

.. Respondents/Respondents

Prayer : Writ Appeal filed under Clause 15 of Letters Patent against the order dated 25.06.2021 in W.P.No.13252 of 2021.

Prayer in W.P.No.13252 of 2021:

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the Respondents No.1 to 3 to conduct an enquiry under Sections 81 to 83 of the Registration Act, 1908, in respect of the registration of the Gift deed dated 17.01.1989 under Document No.127/1989 on



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the file of 3rd respondent based on the petitioner's representation dated 26.03.2021.

For Appellant : Ms.AL.Ganthimathi
for Ms.Thangavadhana Balakrishnan

For Respondents: Mr.D.Ravichander
1 to 3 State Government Counsel for RR 1-3

J U D G E M E N T

PUSHPA SATHYANARAYANA, J.

The appeal is directed against the order passed by the learned Single Judge dated 25.06.2021 made in W.P.No.13252 of 2021 dismissing the writ petition, in which, a direction to the respondents 1 to 3 was sought for to conduct an enquiry under Sections 81 to 83 of the Registration Act qua the Gift Deed executed by the sixth respondent in favour of St. Thomas Mount Panchayat.

2. The appellant/writ petitioner, who had purchased the subject property on 15.09.2010, states that one Srikanda Chettiar was the original owner of the property and he had executed a Will in favour of one Radhakrishnan. Based on the Will, the said Radhakrishnan had obtained patta before the Settlement Tahsildar in the year 1969. After the death of the said Radhakrishnan, the property devolved on his legal heirs. The legal heirs had appointed a Power of Attorney to sell the property to one Mr.L.Samson and Mr.M.Hariphilips and the sale deed was executed on 22.01.2007. In turn, the said Samson and Hariphilips appointed the husband of the appellant/petitioner as the Power of Attorney through whom, the appellant/petitioner had purchased the property.

3. It is the claim of the appellant that the respondent 6 and other residents of Mumoorthy Avenue have been claiming title over the property based on the registered Gift Deed executed in favor of the St. Thomas Mount Panchayat Union dated 17.01.1989. After the appellant came to know about the Gift Deed that was executed in favor of the Panchayat, she made a representation to the respondents 1 to 3 to take action against the respondents 4 and 5 under Sections 81 to 83 of the Registration Act. Since it was not considered, a writ of Mandamus was filed.

4. Heard the learned counsel appearing on behalf of the appellant and the learned State Government Counsel appearing on



behalf of the official respondents. Upon hearing them, in view of the order that we propose to pass, no notice is ordered to the private respondents.

5. A perusal of the records would go to show that even in the year 1989, the property was developed into a layout, which was approved by the competent authorities. As for development of any layout, the Statute mandates the execution of the Gift Deed with regard to common areas in favour of the panchayat for public purpose, the above referred Gift Deed was executed on 17.01.1989. The appellant, who had purchased the property only in the year 2010, claiming right over the same seeks the enquiry under Sections 81 to 83 of the Registration Act.

6. Admittedly, when there is a dispute regarding the title, unless the appellant resolves the dispute before the civil court, she cannot seek any remedy, much less, an enquiry by the respondents 1 to 3. Therefore, the prayer of the appellant/writ petitioner was rightly rejected by the learned Single Judge. We see no reason to interfere in the order of the learned Single Judge.

7. The learned counsel for the appellant also referred to the Circular in Letter No.20217/U1/2021, dated 09.07.2021, which is a procedure laid down for the District Registrars and DIGs to be followed, while conducting enquiry under Section 68(2) of the Registration Act, which has got no relevance to the present case. Even presuming it has, it cannot operate retrospectively.

8. For the foregoing reasons, the Writ Appeal is dismissed confirming the order of the learned Single Judge dated 25.06.2021 passed in W.P.No.13252 of 2021. However, there will be no order as to costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration,
Office of the IG, Registrations,
Santhome, Chennai.



2. The District Registrar,
Office of the DR,
Saidapet, Chennai.

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3. The Sub Registrar,
SRO's Office, Tambaram.

+1cc to M/s.Thangavadhana Balakrishnan, Advocate, S.R.No.59691

W.A.No.2537 of 2021

SRA (CO)
SU (04/01/2022)