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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2021

CORAM:

THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

W.P.No.22009 of 2021

P. Ragupathi

...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

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing 3rd respondent to release and the documents registered on 12.06.2020 vide Document No.P/Dharapuram/20/2020 within the specified period that may be fixed by this Court.

For Petitioner : Mr.J.Hariharan

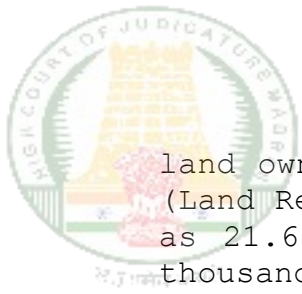
For Respondents : Mr.V.Veluchamy
Government Advocate

ORDER

This writ petition has been filed seeking for a direction to the 3rd respondent to release the document registered on 12.06.2020 vide Document No.P/Dharapuram/20/2020 within the specified period that may be fixed by this Court.



2. The property comprised in Old S.No.514, Old R.S.No.514/5 and New R.S.No.552, measuring an extent of 5.05.00 of Chitharauthanpalayam Village, Dharapuram Taluk, Tirupur District, originally belonged to one Deivasikamani Gounder. Subsequently, he executed a registered Will, vide Document No.20/1952, dated 09.06.1952 bequeathing his property to his wife and four daughters. Thereafter, he died intestate on 13.05.1953, leaving his wife and four daughters, as his legal heirs to succeed his estate as per the said Will. During the life-time of his wife namely Seethaiammal, her daughters without her consent and knowledge, executed a registered Partition Deed, vide Document No.539/1972, dated 27.03.1972 and in continuation of the alleged partition deed, one of the daughters namely Krishnammal executed a Sale Deed in favour of one Gopal and his brother Ramakrishnan on 25.08.1980 without the knowledge of her major son and two daughters in respect of the property in S.No.514/5 measuring an extent of 12.50 ares. When the matter came to her knowledge, the said Seethaiammal received a copy of the draft statement along with a Notice in Form No.7 on 02.02.1979 under Tamil Nadu Land Reforms (FCL) Act, 1961, calling for objection under Section 10(5) of the said Act. After filing her objection, an order was passed on 08.05.1979, as against which, the land owner preferred an appeal before the Land Tribunal (Principal Sub-Judge), Erode, in L.T.A.No.26/1979 and the same was dismissed on 27.11.1991. Aggrieved by the said order, the land owner filed a revision in CRP.No.425/1982 and the same was allowed on 13.07.1989 by this Court and the case was remitted to the Tribunal. As per the order of this Court, the Land Tribunal took up the appeal in L.T.C.M.A.No.12/1984, and the District Revenue Officer (Land Tribunal) passed an order dated 29.06.1987, confirming the order passed by the Assistant Commissioner (Land Reforms), Erode, on 08.05.1979. Against the order passed by the Land Tribunal, the land owner again filed a revision in C.R.P.No.3334/1987, which was later transferred to Tamil Nadu Land Reform Special Appellate Tribunal and the same was numbered as T.R.P.No.333/1991. After due enquiry, the same was again remitted to the Assistant Commissioner (Land Reforms), Erode, on 01.02.1994 to re-determine the holdings of the land owner on par with survey numbers mentioned by the Settlement Tahsildar. Aggrieved by the same, the land owner filed a Special Leave Petition in S.L.P(C).No.11654/1994 and the same was dismissed by the Hon'ble Apex Court on 02.01.1995. As per the order passed by the Tamil Nadu Land Reforms Special Appellate Tribunal, dated 01.02.1994 measuring an extent of 7.50 acres of land does not belong to the Land owner as mentioned in the order of the Settlement Tahsildar and it was deleted from the holdings of the



land owner and an order was passed by the Assistant Commissioner (Land Reform), Erode, dated 07.10.2005 re-determining the holding as 21.677 Standard Acre. Out of 21.677 Standard Acres, 15,000 thousand Standard Acres were allowed as "ceiling area" and an extent of 6.877 Standard Acres, was declared as "surplus". Accordingly, final statement was published in the Tamil Nadu Government Gazette on 16.12.2005 under Section 12 of the said Act and notification under Section 18(1) of the said Act, was published in the Tamil Nadu Government Gazette on 14.02.2006. After due enquiry, the Land Commissioner was observed that after the implementation of the Hindu Succession Act, 1956, the "limited estate" would become an "absolute estate" and taking either as a limited owner or an absolute owner of the property, the said Seethaiammal shall be treated as a "land owner" and the Assistant Commissioner (Land Reforms), Erode, was directed 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 the final statement under Section 12 and Notification under Section 18(1) of the Act.

3. It is the further case of the petitioner that, pursuant to the order of the Land Commissioner, the sale deed had taken place from the commencement of the Tamil Nadu Land Reforms (RCL) Act, 1970, namely 15.02.1970 to 14.02.2006 which was gathered from the Sub Registrar, Dharapuram and the Land Owner sold an extent of 5 acres in S.F.No.530 vide Doc.No.274/1995, dated 03.02.1995. In fact, the Assistant Commissioner (Land Reforms), Erode, by his proceedings dated 23.11.2012, 15000 or 15001 standard acres of land, observed that the land owner shall continue to retain a portion (ceiling area) of the land owner Seethaiammal and measuring an extent of 6.877 standard acres shall continue to be "surplus area" as mentioned in the Notification under Section 18(1) of the Act published in Tamil Nadu Government Gazette dated 14.02.2006 and it was also observed that the sale covered by Document No.2575/1980 in favour of Gopal and Ramakrishnan, was void. The executant Krishnammal derived right of alienation only on 01.01.2004 being the date of demise of Seethaiammal, as already observed by Land Commissioner vide D1/RP2/2006. In such circumstances, the said Krishnammal executed a Power Deed in favour of the petitioner, measuring an extent of 9 acres 42 cents in R.S.No.552. The said document was registered by the 3rd respondent and thereafter, the same was kept pending in Document No.P20/2020. She also executed a settlement deed in favour of her son, measuring an extent of 3 acre 5 cents on 12.06.2020, which was also registered and not released by the 3rd respondent. On the basis of the alleged sale deed, the same was registered as Doc.No.1836/2005. Once the



Competent Authority declared partition deed and sale deed vide Doc.No.2572/1980 as void, the Registering Authority has not right to retain the document executed by the true owner. However, the first respondent, by Circular dated 09.07.2021 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. Therefore, the Competent Authority/Land Commissioner clearly held that even though the Will takes effect on the death of the executor ie., on 13.05.1951, the four daughters had accrued rights in the properties only on the death of their mother Seethaiammal on 01.01.2004. Therefore, the partition effected among the four daughters during 1972, is null and void and the sale deed dated 25.08.1980 by one of the daughters Krishnammal is also null and void, as the four daughters acquired salable rights only on the demise of their mother Seethaiammal on 01.01.2004. Hence, the Power Deed executed by the petitioner's principal was presented for registration and the same was registered and thereafter, the act of the third respondent to refuse to release the said document, is illegal. Therefore, the respondents are not entitled to retain any document after due registration. But the 3rd respondent kept the document pending for years together without assigning any reasons. Hence, the petitioner has come forward with the present writ petition.

4. The learned counsel appearing for the petitioner submitted that the petitioner will be satisfied, if a direction is issued to the 3rd respondent to release the document registered on 12.06.2020 vide Document No.P/Dharapuram/20/2020 within the specify period fixed by this Court.

5. Heard both side and perused the materials available on record.

6. Considering the above circumstances and the fact that the petitioner has complied with Circular No.25600/C1/2018, dated 07.06.2018, issued by the first respondent, namely The Inspector General of Registration, Santhome High Road, Santhome High Road, Chennai - 600 028, and also produced the required documents, consequently, and if the petitioner has complied with all the requirements as contemplated in the above said circular dated 07.06.2018, the third respondent/Sub Registrar is directed to register and release the petitioner's Doc.No.P/Dharapuram/20/2020 after scrutinizing all the Revenue Records in respect of the aforesaid document, within a period of eight weeks from the date of receipt of a copy of this order. No costs.



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Accordingly, the Writ Petition is disposed of.

Sd/-

Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar

gba/msm

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 Mr. Babu Ragendran, Advocate SR.No.57258

W.P.No.22009 of 2021

PL (CO)
CB (03/01/2022)