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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.NO.24190 OF 2021

AND

W.M.P.NO.25520 OF 2021

J.Logambal

... Petitioner

.Vs.

1. The Deputy Inspector General of Registration,
Coimbatore,
Coimbatore District.
2. The District Registrar(Administration),
Tiruppur,
Tiruppur District.
3. G.Viswanathan
4. The Sub Registrar,
Vellakovil,
Kangeyam,
Tiruppur District.
5. V.Balasubramaniam
6. K.Dhandapani
7. M.Alamathal
8. M.Thilagavathy
9. K.Gandhimathi
10. K.Veeravel

... Respondents

PRAYER:-

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 order dated Nil.08.2021 in proceedings No.Na.Ka.No.3263/E2/2021 on the file of first



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respondent and quash the same and consequently direct the second respondent to initiate proceedings under Section 82 of Registration Act against respondents No.3, 5 to 10.

For Petitioner : Mr.K.Myilsamy

For Respondents

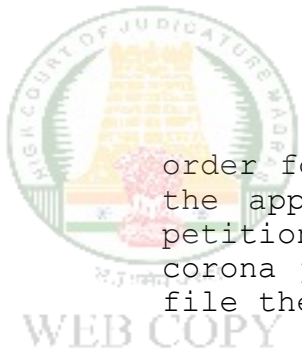
For R1,2&4 : Mr.Yogesh Kannadasan
Government Advocate

ORDER

This writ petition is filed to issue a Writ of Certiorarified Mandamus calling for the records of order dated Nil.08.2021 in proceedings No.Na.Ka.No.3263/E2/2021 on the file of first respondent and quash the same and consequently direct the second respondent to initiate proceedings under Section 82 of Registration Act against respondents No.3, 5 to 10.

2. The case of the petitioner is that the petitioner inherited the subject property by the Will dated 15.12.1999. The petitioner settled the subject property in favour of her son by the registered settlement deed dated 04.02.2008 registered vide document No.369 of 2008 on the file of the Sub Registrar, Vellakovil. However, the other heirs of the petitioner's family members filed suit for partition in OS.No.156 of 2000 on the file of the Sub Court, Dharapuram and the same was dismissed by the judgment and decree dated 28.09.2005. Aggrieved by the same, appeal suit was filed and the same was allowed in favour of them by the judgment and decree dated 21.11.2006. The petitioner filed second appeal in SA.No.451 of 2007 before this Court and it is pending. While being so, the third respondent, who is the petitioner's grandfather's brother had purchased the undivided share from the other legal heirs to file suit by the deed registered vide document No.1392 of 2010. The third respondent, in view of the fact that the subject property does not belong to the said heirs of the petitioner's family and even then, purchased the property by fraudulent sale. Therefore, the petitioner lodged complaint before the second respondent under Sections 82 and 83 of the Registration Act.

3. The second respondent after conducting enquiry, rejected the complaint by order dated 09.03.2020 for the reason that the District Registrar has no power to enquire with regards to title over the property. Aggrieved by the same, the petitioner preferred appeal before the first respondent beyond the period of 60 days of limitation. Therefore, the first respondent rejected the appeal filed by the petitioner by the impugned



order for the reason that the appeal was preferred belatedly and the appeal is barred by limitation. The reason stated by the petitioner for the delay in filing the appeal is that due to corona pandemic circumstances, the petitioner could not able to file the appeal in time.

4. Considering the above, the impugned order passed by the first respondent cannot be sustained and it is liable to be set aside. Accordingly, the impugned order dated Nil.08.2021 is set aside and the writ petition is allowed. The appeal is remanded back to the first respondent for fresh consideration. The first respondent is directed to issue notice to the counter parties i.e. respondents 3,5 to 10 and after giving them opportunity of hearing and pass orders on merits and in accordance with law within a period of sixteen weeks from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed. No order as to costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Inspector General of Registration,
Coimbatore,
Coimbatore District.
2. The District Registrar(Administration),
Tiruppur,
Tiruppur District.
3. The Sub Registrar,
Vellakovil, Kangeyam,
Tiruppur District.

+1cc to Mr.K.Myilsamy, Advocate, S.R.No.58112

+1cc to the Government Pleader, S.R.No.58176

W.P.NO.24190 OF 2021

AJS(CO)
PBS/03/12/2021