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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2021

CORAM

THE HON'BLE Mr. JUSTICE C.V.KARTHIKEYAN

W.P.No.34589 of 2019

and

W.M.P.Nos.35334 and 35335 of 2019

1.P.Jayaprakash

2.Sundarambal

.. Petitioners

Vs.

1.The Inspector General of Registration,
100, Santhome High Road,
Chennai - 28.

2.The Deputy Inspector General of Registration,
Coimbatore.

3.The District Registrar (Administrative)
Thirupur.

4.R.Duraisamy

5.R.Viswanathan

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the entire records pertaining to the impugned proceeding No.4345/E2/2018, order dated 05.09.2019 on the file of the 2nd respondent and quash the same.

For Petitioner .. Mr.K.Sudhakar

For R1, R2 and R3 .. Mr.Yogesh Kannadasan
Government Advocate

For R4 and R5 .. Mr.K.Myilsamy

ORDER

This writ petition has been filed in the nature of Certiorari, to interfere with the proceeding bearing No.4345/E2/2018 and order dated 05.09.2019 passed thereunder by the 2nd respondent / the Deputy Inspector General of



Registration, Coimbatore and to quash the same.

2. Even prior to that particular order, the earlier order of the 3rd respondent / the District Registrar (Administrative), Thiruppur, dated 31.10.2018 will have to be examined. By the said order the authority after examining the representations made by either side, details of which shall be discussed further in this order, finally stated that a particular settlement deed which had been presented for registration and which actually had been registered as Document No.3794 of 2017 on 24.10.2017 should be kept in abeyance.

3. The 3rd respondent had also invoked Section 83 of the Registration Act, 1909, had directed criminal prosecution against the writ petitioners herein. As against that particular order, the writ petitioners had approached the 2nd respondent who had confirmed the said order, necessitating the filing of the present writ petition.

4. Let me now examine the facts.

5. The 1st petitioner is the son of one Ponnusamy Gounder and the 2nd petitioner is his mother. The 4th and 5th respondents are the sons of Ramasamy Gounder. Ramasamy Gounder is the maternal grandfather of the 1st petitioner herein. He had self acquired property. He died on 15.11.2013. After his death, legal heirship certificate was obtained, in which the 2nd petitioner was also shown as legal representative, naturally, as daughter of Ramasamy Gounder. Basing her claim on that particular document, the 2nd petitioner appears to have settled the property now under dispute on the 1st petitioner as aforesaid by settlement deed on 24.08.2017 registered as Document No.3794 of 2017.

6. However, Ramasamy Gounder appears to have executed a Will which had also been registered and by that Will he bequeathed the very same property to the 4th and 5th respondents herein. The Will came into effect on his death. Naturally, disputes arose between the petitioners herein on the one hand and the 4th and 5th respondents on the other hand.

7. Let me not enter into any further discussion about the rival claims or merits of the rival claims of the either party, particularly, because they have, with due prudence, instituted a suit for partition in O.S.No.280 of 2018, which is now pending on the file of the I Additional District Court, Thiruppur. Since that suit will decide the entitlement of the property thereto, it would only be appropriate that the direction given to prosecute or initiate criminal prosecution by the 3rd respondent is kept in abeyance till a decision is given in the said suit or in any appeal. If it results in favour of the 4th and 5th



respondent herein, then they are at liberty to once again approach the 3rd respondent, seeking revival of that particular direction.

8.However, the 3rd respondent had given a further direction namely, to make an entry in the register that the said settlement deed dated 24.10.2017, should not be acted upon. As a matter of fact, they use the word fraudulent. This entry will continue to remain on the register till a judgment delivered either in the suit or in any appeal.

9.However, I am confident that this entry or observation made by the 3rd respondent and 2nd respondent in their orders would not influence the I Additional District Judge, Thiruppur, who is now examining the rival claims in O.S.No.280 of 2018. The learned Judge will have to decide the issues framed in that particular suit, based on the pleadings and on the oral and documentary evidence adduced by the parties and certainly not on the basis of the observations made by the revenue authorities. This observation would suffice to answer the writ petitioners' claim before this Court. No orders are required, the writ petition is disposed. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

10.The parties are directed to go back to the trial court where the suit in O.S.No.280 of 2018 is pending. The direction with respect to criminal prosecution alone is kept in abeyance and could be revived once the civil suit comes to a finality either in the court of first instance or in the appellate court. However, the entry in the registers will continue and can be interfered with, depending on the judgment given in the civil suit / appeals therefrom.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

smv

To

1.The I Additional District Judge,
Tiruppur.

2.The Inspector General of Registration,
100, Santhome High Road,
Chennai - 28.



3.The Deputy Inspector General of Registration,
Coimbatore.

4.The District Registrar (Administrative)
Thiruppur.

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+1cc to Mr.K.Sudhakar, Advocate, S.R.No.40648

+1cc to Mr.K.Myilsamy, Advocate, S.R.No.41168

W.P.No.34589 of 2019

PL(CO)
GN(14/09/2021)