



**BEFORE THE MADURAI BENCH OF MADRAS HIGH Court**

**DATED: 07.07.2021**

**CORAM:**

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**W.P. (MD)No.14409 of 2013**

(Through Video Conferencing)

S.C.Balakrishnan

... Petitioner

Vs.

1.The Sub Registrar  
Office of the Sub Registrar,  
Registration Department  
Theni.

2.The District Registrar,  
Registration Department  
Periyakulam,  
Theni District.

3.A.Chellappa

4.C.Gandhimathi

5.Kanchanan

6.Rajeshwari

7.Vijaya

8.Aruna @ Krishnaveni

... Respondents

(R3 has been impleaded vide order of this  
Court dated 24.07.2014 in M.P.No.1/2014)

R4 to R8 have been impleaded vide order  
of this Court dated WMP(MD).No.6641/2017 vide 11.12.2017)

**PRAYER** : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the 2<sup>nd</sup> respondent relating to his order passed on 27.05.2013 in his proceedings in Na.Ka.No.2646/AA1/E2/2013 dated 27.05.2013 confirming the order of the 1<sup>st</sup> respondent in Na.Ka.No.232/2013 dated 18.05.2013 and quash the same and direct the 1<sup>st</sup> respondent to register the sale deed dated 29.03.2012 produced on 30.03.2012.

For Petitioner  
For Respondents

:Mr.M.C.Swamy  
:Mr.M.Lingadurai for R1 & R2  
Government Advocate  
Mr.C.Muthu Saravanan for R3

**ORDER**



The present writ petition has been filed challenging the order passed by the second respondent through proceedings dated 27.05.2013, wherein, the second respondent had confirmed the order passed by the first respondent through proceedings dated 18.05.2013 and for a consequential direction to the first respondent to register the sale deed dated 29.03.2012.

2. The case of the petitioner is that the subject property originally belonged to one Bommaiya Gounder. According to the petitioner, all the revenue records stood in his name right from the year 1912 onwards. The further case of the petitioner is that the said Bommaiya Gounder died in the year 1962 and the property devolved upon his legal heirs.

3. The legal heirs of Bommaiya Gounder executed a sale deed in favour of the petitioner on 29.03.2012 and when the same was presented for registration before the first respondent, the first respondent refused to register the document on the ground that there is a dispute with regard to the name of the father of Bommaiya Gounder and the same is not clear from the revenue records. That apart, the first respondent also received objections from the private respondents, who claim themselves to be entitled to the subject property.

4. Hence, the first respondent proceeded to refuse registration through proceedings dated 18.05.2013. Thereafter it was confirmed in appeal by the second respondent through proceedings dated 27.05.2013. Aggrieved by the same, the present writ petition has been filed before this Court.

5. Heard the learned counsel for the petitioner and the learned Government Advocate appearing on behalf of the official respondents.

6. The petitioner has been knocking the doors of this Court from the year 2012 onwards. He filed W.P.(MD) No.14790/2012 challenging the earlier orders passed by the respondents refusing to register the documents and this Court, while allowing the writ petition by order dated 21.11.2012, passed the following order:

"6.As per Section 5 of the Tamil Nadu Patta Pass Book Act, 1983, no document relating to transfer of any land by sale, gift, mortgage, exchange, settlement or otherwise shall be registered by the registering authority, unless the patta pass book relating to such land is produced before such registering authority.

7.But in the instant case, the learned counsel appearing for the petitioner submits that the petitioner has produced the patta pass book of the vendor's predecessor. But his appeal was rejected.



8. In my considered opinion, in case if the patta granted to the vendor's predecessor contains the necessary details, viz., the survey number and the extent of the property, there can be no dispute in identifying the property. Under such circumstances, the same should be considered under Section 5 of the Tamil Nadu Patta Pass Book Act, 1983.

9. The learned Counsel for the petitioner has also submitted that the petitioner is ready to produce the patta pass book before the second respondent. Hence, this Court is inclined to allow this writ petition.

10. Accordingly, this writ petition is allowed and the second respondent is directed to register the document produced by the petitioner on the production of patta granted to the vendor's predecessor interest. Such exercise shall be completed within a period of two months from the date of receipt of a copy of this order. No costs."

7. It is clear from the above order that the respondents were directed to scrutinize the identification of the property, extent of the property and the survey number and insofar as the patta is concerned, they were directed to satisfy themselves as to whether it was granted to the vendor's predecessor in interest. On such satisfaction, this Court directed the first respondent to register the document.

8. The respondents unfortunately have engaged in a detailed analysis to find out the actual name of the father of Bommaiya Gounder. Bommaiya Gounder had died in the year 1962 and the title is traced from the year 2012 onwards. The legal heirs of Bommaiya Gounder are also in possession of the original title deeds. If there is some confusion regarding the name of the father of Bommaiya Gounder as found in the revenue records, that should not in any way stop the first respondent from proceeding further to register the document. The first respondent is not expected to act like a Court and analyze the title to the property. What is required is to be considered is the prima facie materials before him and on satisfaction register the document. Registration of a document is basically a ministerial act and the Registrar is not supposed to render findings on the title to the property.

9. In the considered view of this Court, if at all the private respondents have any right over the property, they should agitate the same before the competent civil Court. They cannot keep agitating their rights before the Sub Registrar and the Sub Registrar cannot decide inter se rights between the parties. This Court is of the considered view that the impugned orders passed by the respondents are unsustainable in law and the same requires the interference of this Court.



10. In the result, the impugned proceedings of the first respondent dated 18.05.2013 and as confirmed by the proceedings of the second respondent dated 27.05.2013 are hereby quashed. There shall be a direction to the first respondent to register the sale deed dated 29.03.2012, which shall be represented by the petitioner, if it is otherwise in order and necessary stamp duty and registration charges are paid. This process shall be completed by the first respondent within a period of two weeks from the date of receipt of a copy of this order. The document shall be released after registration.

11. The writ petition is allowed with the above directions. No costs.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Sub Registrar  
Office of the Sub Registrar,  
Registration Department  
Theni.

2.The District Registrar,  
Registration Department  
Periyakulam,  
Theni District.

+1 CC to M/s.G.RAJARAMAN, Advocate ( SR-21629[F] dated 08/07/2021 )

W.P. (MD) No.14409 of 2013  
07.07.2021

CM(CO)

KB(14.07.2021) 4P 4C