



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2021

CORAM:

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)No.14167 of 2021

and

W.M.P. (MD) .Nos.11118 & 11119 of 2021

WEB COPY

G.Kalyanasundari

... Petitioner

versus

1.The Sub-Registrar,
Ottanchathiram Registration Office,
Dindugal District.

2.Ganesh Pandi

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the impugned order of the 1st respondent passed on 26.07.2021 vide order in RFL/Ottanchathiram/38/2021 and quash the same and further directing the 1st respondent to register the document dated 26.07.2021 executed by the petitioner relating to land situated in old Survey number 128/2A1 admeasuring 2287 sq.ft plot in patta No.1101 at Ottanchathiram, Dindigul District.

For Petitioner : M/s. chamundiBose
for Mr.K.Kathiresan

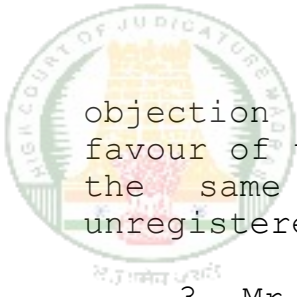
For Respondents : Mr.P.Subbaraj
Counsel for State for R1

ORDER

The petitioner challenges an order dated 26.07.2021 of the first respondent, whereby the petitioner's request for registration of sale deed dated 26.07.2021 was refused on the basis that the entitlement of the vendor under the sale deed has been traced to an unregistered Settlement Deed.

2. The petitioner states that her husband the second respondent herein, purchased the property bearing Survey No.128/2 at Ottanchathiram Village, Dindigul District, jointly with one Mr.C.Veluchamy. Subsequently, the said Veluchamy and her husband converted the said lands into plots and effected an oral partition thereof. Later, the second respondent herein, who took possession of three plots in Survey No.128/2, executed a Settlement Deed on 07.02.2003 in the petitioner's favour for lands in Survey No.128/2A1. Subsequently, on 26.07.2021, the petitioner executed a sale deed in favour of one Devi Prasanna and paid the requisite fees in connection therewith. However such registration was refused by the impugned communication dated 26.07.2021. The petitioner states

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objection to the execution of the sale deed by the petitioner in favour of the purchaser. However, the respondent refused to register the same because the Settlement Deed dated 07.02.2003 is unregistered.

3. Mr.R.Baskaran, learned counsel for the State, accepts notice on behalf of the first respondent. He points out that the Settlement Deed dated 07.02.2003 is an instrument that requires compulsory registration under Section 17 of the Registration Act 1908, for the reason that right, title and interest in the property in question passed under the instrument.

4. The refusal check slip indicates clearly that the registration was refused because the Settlement Deed in favour of the petitioner was unregistered. Accordingly, it is necessary to examine such Settlement Deed in order to ascertain whether it records a past conveyance by reducing the same into writing subsequently or whether right, title and interest in the property in question flows under the instrument. The relevant Settlement Deed indicates beyond doubt that the property is being conveyed under the Settlement Deed. This is abundantly clear from the following: “நான் உனக்கு இந்த ஆவணத்தின் மூலமாக செட்டில்மெண்டாக பாத்தியப்படுத்தி எழுதிக்கொடுத்து”

5. In the aforesaid facts and circumstances, the impugned communication does not contain any infirmity. However, in view of the fact that the second respondent is the husband of the petitioner, it may still be possible for the petitioner to execute a fresh instrument that would fulfil the requirements of the Registration Act 1908 and submit such fresh instrument for registration thereafter.

6. Subject to the aforesaid observations, W.P.(MD).No.14167 of 2021 is disposed of without any order as to costs. Consequently, connected W.M.P.(MD).Nos.11118 & 11119 of 2021 are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sbn

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.

<https://hcservices.ecourts.gov.in/hcservices/>



To
The Sub-Registrar,
Ottanchathiram Registration Office,
Dindugal District.

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+1 CC to M/s.GP (SR-26382[F] dated 16/08/2021)

W.P(MD)No.14167 of 2021

12.08.2021

MGJ(27.08.2021) 3P 3C