



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.09.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.14885 of 2021

WEB COPY

S.Ravichandran

... Petitioner

Vs.

1.The District Registrar,
Palani Registration District, Palani,
Dindigul District.

2.The Joint Registrar No.1,
No.1, Joint Registrar Office,
Palani,
Dindigul District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent pertaining to its order bearing Na.Ka.No.4276/Apape/2020 dated 30.12.2020 and to quash the same and consequently direct the respondent to register the sale agreement dated 10.12.2020 based on the will executed by Velusamy Gounder in favour of the petitioner with regard to the properties in Survey No.12/2 comprised in Palani Town, Palani Taluk, Dindigul District within the time frame that may be stipulated by this Hon'ble Court.

For Petitioner : Mr.S.C.Herold Singh

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

ORDER

The petitioner challenges an order dated 30.12.2020 by which the petitioner was informed of the refusal to register the sale agreement dated 10.12.2020.

2. The petitioner states that he is the owner of the property bearing Survey No.12/12, Palani Town, Palani Taluk, Dindigul District. According to the petitioner, the said property originally belonged to one Mr.Vellusamy. The said Mr.Vellusamy executed a Will on 30.09.2014. Under the said Will, the above mentioned property was bequeathed to the petitioner. The petitioner also states that he applied for a mutation of the patta in his name and that the application relating thereto is pending. Meanwhile, the



petitioner executed an agreement of sale in favour of one Mr.K.Senthil Kumar. Upon presentation of such agreement of registration, the second respondent herein refused to register the same by impugned order dated 30.12.2020. The present Writ Petition is filed to challenge the said order.

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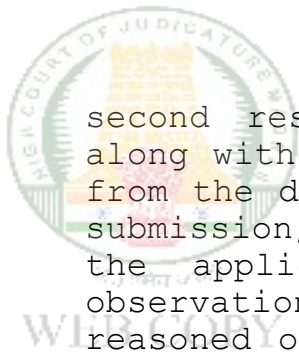
3. Mr.P.Subbaraj, learned counsel for the State, appears for both the respondents. He refers to the Circular dated 24.04.2012 issued by the Inspector General of Registration. He points out that the said circular mandates that the Registering Officer should insist on the production of the previous documents of title under which the executant acquires rights over the said property. In case such documents are not available, the said Circular requires that the relevant revenue records relating to the property should be produced. He also points out that the petitioner had relied upon a power of attorney deed bearing Document No.782 of 2015. In view of the death of the principal in 2018, he submits that the power of attorney deed would cease to be valid.

4. Upon perusal of the impugned order, it is evident that the refusal to register the document was on the basis of two reasons. The first reason is that the power of attorney deed bearing Document No.782/2015 has ceased to be valid or effective on account of the death of the principal in the year 2018. The said conclusion is unexceptionable. A contract of agency ceases to have validity or effect upon the death of the principal. However, as the legatee under the Will, the petitioner is entitled to present the agreement of sale for registration even de hors the power of attorney deed.

5. Therefore, it becomes necessary to turn to the second reason cited in the impugned order. The second reason specified in the impugned order is that the Will executed in the year 2014 is unregistered. As regards this reason, it should be noted that a Will is not a document requiring compulsory registration under Section 17 of the Registration Act, 1908. Indeed, in view of the fact that such Will has been executed at Dindigul and relates to a property in Dindigul, even a probate or letters of administration would not be necessary.

6. However, the registration authorities are certainly entitled to call for documents to establish that the testator was the owner of the property bequeathed to the petitioner. As contended by learned counsel for the State, the Registrar may also call for the parent documents or revenue records relating to the relevant property.

7. For the reasons set out above, the impugned order dated 30.12.2020 is not sustainable. Consequently such order is quashed. As a corollary, the petitioner is permitted to re-submit the



second respondent. The petitioner shall re-submit such document along with corroborating documents within a period of two (2) weeks from the date of receipt of a copy of this order. Upon such re-submission, the second respondent herein is directed to re-consider the application for registration by taking into account the observations contained herein and dispose of such application by a reasoned order within a period of two (2) months from the date of such re-submission.

8. Accordingly, W.P.(MD).No.14885 of 2021 is disposed of on these terms without any order as to costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/LM

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 District Registrar,
Palani Registration District, Palani,
Dindigul District.

2.The Joint Registrar No.1,
No.1, Joint Registrar Office,
Palani,
Dindigul District.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-28307[F] dated 07/09/2021)

+1 CC to M/s.GP (SR-28362[F] dated 07/09/2021)

**W.P (MD) No.14885 of 2021
06.09.2021**

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