



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2021

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WEB COPY

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD).No.16271 of 2021

S.Devamariamammal

... Petitioner

Vs.

1.The Inspector General of Registration,
O/o.The Inspector General,
Registration Department,
Chennai-28.

2.The Deputy Inspector General of Registration,
O/o.The Deputy Inspector General of Registration,
Tirunelveli.

3.The District Registrar (Admn),
O/o.The District Registrar,
Tenkasi District,
Tenkasi.

4.The sub-Registrar,
Alankulam,
Alankulam Taluk,
Tenkasi District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Check Slip No.2 dated 23.07.2021 issued by the 4th respondent and the consequential communication issued by the third respondent in Na.Ka. No.4556/2, 1/2021 dated 09.08.2021 and set aside the same as ultra virus and directing the fourth respondent to register the sale deed dated 30.07.2021 executed by the petitioner along with her daughter with respect to the properties in S.No.103/1, 103/2 and 103/3 of Uthumalai Village, Veera Keralam Pudur Taluk, Tenkasi District.

For Petitioner : Mr.P.Subbiah

For Respondents : Mr.K.S.Selvaganesan
Counsel for the State

ORDER

The petitioner challenges a refusal check slip issued by the 4th respondent and a consequential communication dated 09.08.2021 of the 3rd respondent.



2. The petitioner states that her father, Arumugam Asari, owned several acres of agricultural lands in Uthumalai village. In view of the fact that the petitioner married a person belonging to a different caste, it is stated that she was called upon to execute a release deed in respect of the movable and immovable properties of the family. Such release deed was executed by the petitioner on 21.03.1997 when the petitioner was only about 18 years old. The petitioner asserts that the said release deed was not acted upon. Subsequently, her father died intestate on 27.03.2010 leaving behind the petitioner, her 3 sisters and 2 brothers. Upon his death, it is stated that the legal heirs divided the properties among themselves. In course of such division, the petitioner was allotted 7.5 acres in Survey No.103/1, 8 acres in Survey No.103/2 and 8 acres in Survey No.103/3. The joint patta in the names of the petitioner and her father is cited in support of this submission. Thereafter, the petitioner executed a settlement deed dated 29.10.2020 in favour of her daughter, which was registered by the 4th respondent as document No.2611/2020. Pursuant thereto, joint patta No.763 was issued in favour of the petitioner and her daughter as regards the property bearing survey Nos. 103/1,103/2,103/3.

3. In order to augment the amounts required to perform her daughter's marriage, the petitioner states that she and her daughter executed a sale deed on 30.07.2021 in favour of one Shanmuganathan and submitted the same for registration before the 4th respondent. The impugned order of the 4th respondent and the consequential order of the 3rd respondent were issued in relation to the above mentioned document. The present writ petition is filed assailing the said orders.

4. Mr.K.S.Selvaganesan, learned counsel for the State, accepts notices on behalf of all the respondents. He submits that the petitioner has released her rights in the property under the release deed dated 21.03.1997. In such circumstances, unless all the legal heirs of the petitioner's father accept that she is entitled to deal with the property, he submits the impugned orders cannot be interfered with.

5. On the other hand, learned counsel for the petitioner contends that the relevant revenue records as well as the settlement deed dated 29.10.2020 were produced for consideration by the 4th and 3rd respondents. In spite of producing such documents, it is stated that the impugned orders were issued without providing the petitioner an opportunity to explain her ownership of the relevant properties.

6. The petitioner has admitted the execution of the release deed dated 21.03.1997. However, her contention is that such release deed was not acted upon. In support of such contention, the petitioner has enclosed the joint patta issued in the names of her



21.10.2020. In addition, the petitioner refers to the settlement deed dated 29.10.2020 executed by her in favour of her daughter. Such settlement deed appears to have been registered by the 4th respondent by assigning document No.2611 of 2020 thereto. The joint patta issued subsequently to the petitioner and her daughter has also been enclosed. Such joint patta refers to proceedings dated 21.01.2021.

7. In view of the production of the above documents, the 3rd and 4th respondents herein should have taken the above documents into account and also conducted an inquiry by putting the other legal heirs of the petitioner's father on notice. Instead the impugned orders have been issued without conducting a proper inquiry and without providing a reasonable opportunity to the petitioner and the other legal heirs of the petitioner's father. On account of the failure to conduct a proper enquiry, the impugned orders are quashed. As a corollary, the matter is remitted to the 4th respondent for conducting an inquiry in accordance with law. For such purpose, the petitioner is permitted to resubmit the relevant document before the 4th respondent within a period of 2 weeks from the date of receipt of a copy of this order. Upon receipt thereof, the 4th respondent is directed to consider the petitioner's request for registration, conduct an inquiry in connection therewith by providing a reasonable opportunity to the petitioner and also the other legal heirs of her late father. The entire exercise shall be completed within a period of 3 months from the date of receipt of the resubmitted document from the respondent.

8. W.P.(MD).No.16271 of 2021 is disposed of on these terms without any order as to costs.

Sd/-

Assistant Registrar (AE)

// 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.



To

- 1.The Inspector General of Registration,
O/o.The Inspector General,
Registration Department,
Chennai-28.
- 2.The Deputy Inspector General of Registration,
O/o.The Deputy Inspector General of Registration,
Tirunelveli.
- 3.The District Registrar (Admn),
O/o.The District Registrar,
Tenkasi District,
Tenkasi.
- 4.The sub-Registrar,
Alankulam,
Alankulam Taluk,
Tenkasi District.

+1 CC to M/s.P.SUBBIAH, Advocate (SR-28905[F]
dated 13/09/2021)

+1 CC to M/s.SPL.GP (SR-28958[F] dated 14/09/2021)

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