



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2021

CORAM:

**THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

**C.M.P. (MD) No.7739 of 2021
and W.A. (MD) SR. No.44458 of 2021**

T.Balasubramanian ... Petitioner in Miscellaneous
Petition and appellant in Writ Appeal
Vs.

1.T.Thirumalairaj

2.The Sub Registrar,
(Document Registration),
Chathirapatti Sub-Registration Office,
Oddanchathiram Taluk,
Dindigul District.

... Respondents in Miscellaneous
Petition and Respondents in Writ Appeal

Prayer in C.M.P. (MD) No.7739 of 2021: Civil Miscellaneous Petition filed under Section 151 of the Code of Civil Procedure, 1908, praying for granting leave to the petitioner to file the Writ Appeal against the order in W.P.(MD) No.7868 of 2021, dated 16.04.2021.

Prayer in W.A.(MD) SR.No.44458 of 2021: Writ Appeal filed under Clause 15 of Letter Patent Appeal, praying to set aside the order dated 16.04.2021 passed in W.P.(MD) No.7868 of 2021 and allow the Writ Appeal.

Prayer in WP(MD). 7868/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus or any other writ or order in the nature of writ, pass such further or other orders calling for the records relating to the impugned order of the respondent in his proceeding in Na.Ka.No. 47/sapa chathirapatti/2021 dt 01/04/2021 and quash the same as illegal and consequently direct the respondent to register the documents presented by the petitioner for registration without insisting for the production of original parent document in light of the order made by this Court in K.S. Vijayandran Vs IG of Registration 2011(2) LW 648 within the time that may be stipulated by this Court and pass such further or other orders as this Honble court may deem fit and proper.



For Petitioner in C.M.P.
and Appellant in W.A. SR.
For 2nd Respondent in C.M.P.
& 2nd Respondent in W.A.SR

: Mr.M.Kumar
: Mr.P.Subbaraj
Government Advocate

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COMMON ORDER

(Order of the Court was made by PUSHPA SATHYANARAYANA, J.)

C.M.P.(MD) No.7739 of 2021 has been filed for granting leave to the petitioner to file Writ Appeal against the order in W.P.(MD) No.7868 of 2021, dated 16.04.2021.

2.The petitioner is the brother of the Writ Petitioner in W.P. (MD) No.7868 of 2021. The said Writ Petition was filed, seeking a direction from this Court to set aside the impugned order dated 01.04.2021, and to direct the Sub-Registrar to register the document without insisting on production of original documents. This Court, by order dated 16.04.2021, allowed the Writ Petition and quashed the order of the respondent therein and directed the respondent to register the lease agreement, if the same is otherwise in order, without insisting on stamp duty payable. Aggrieved by the said order, the petitioner, who is a third party, seeks leave of this Court to file an appeal.

3.The contention of the learned counsel for the petitioner is that the documents produced by the writ petitioner are forged documents and if the lease agreement is registered, it will create a third party interest.

4.It is worthwhile to note that the writ petitioner has filed O.S.No.84 of 2021, on the file of Additional District Judge, Palani, for recovery of possession by making the writ petitioner as defendant.

5.While granting leave, this Court has to see as to whether the petitioner is a person aggrieved. In the Writ Petition only a direction was given to the second respondent. Whether the writ petitioner has got title or the petitioner has got better title can be decided only by the Civil Court. Therefore, it would be improper to grant leave to the petitioner to file appeal as he is not directly prejudiced by the order passed by the Writ Court. Further, the order passed by the Writ Court is not even binding on the petitioner herein. In such circumstances, we are of the opinion that the petitioner cannot be said to be an aggrieved person and he cannot file the appeal as a third party. Nevertheless, it is open to him to establish his title in the appeal filed or in any other manner known to law.



6. Accordingly, C.M.P.(MD) No.7739 of 2021 is dismissed. Consequently, W.A.(MD)SR. No.44458 of 2021 is rejected. No costs.

Sd/-

Assistant Registrar (CS-III)

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// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

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:

The Sub Registrar,
(Document Registration),
Chathirapatti Sub-Registration Office,
Oddanchathiram Taluk,
Dindigul District.

+1 CC to M/s.M. KUMAR, Advocate (SR-34901[F] dated 18/11/2021)

+1 CC to M/s.SPL GP (SR-34973[F] dated 18/11/2021)

C.M.P. (MD) No.7739 of 2021
and W.A. (MD) SR. No.44458 of 2021
17.11.2021

DKS (CO)

GC(29.11.2021) 3P 4C