



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD).No. 18970 of 2021

Arunagiri

... Petitioner

Vs.

1. The District Registrar,
Periyakulam Registration District,
Theni District.

2. The No.1 Joint Registrar,
Periyakulam Registration Office,
Periyakulam.

... Respondents

Prayer : Petition filed under Article 226 of Constitution of India for the issuance of a writ of certiorari, calling for the records of the first respondent in Na.Ka.No.4119/A1/2016 dated 18.11.2016 and quash the same as illegal and arbitrary and pass orders.

For Petitioner : Mr. B. Sekar
for Mr. Ganapathi Subramanian

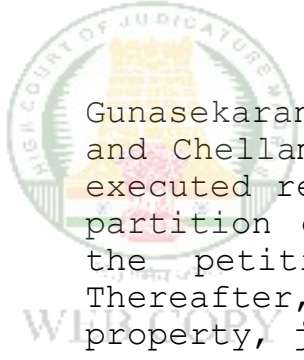
For Respondents : Mr. S. Kameswaran
Government Advocate

ORDER

The writ petition has been filed in the nature of a certiorari to call for the records of the first respondent/District Registrar, Periyakulam Registration District, Theni District with respect to an order dated 18.11.2016 in Na.Ka.No.4119/A1/2016 and quash the same.

2. The writ petitioner, claimed possession and enjoyment of properties in S.F. No. 85/1 measuring 2.18 acres, in S.F. No. 15 measuring 3.59 acres, in S.F. No. 367 measuring 1.18.0 hectares, in S.F. No. 55/2A2 measuring 74 cents and in S.F. No. 55/1A3 measuring 0.26.0 acres in E. Pudukottai, Periyakulam Taluk, Theni District.

3. Writ petitioner claims that the lands aforementioned originally belonged to his grandfather, Mookaiya and thereafter on his death, his grandmother, Kaliammal was in exclusive possession. She died on 21.11.1999, leaving behind her daughters Chellammal, Muniyammal and Neela and also a son, Muniyandi. The petitioner is a son of Muniyandi. His father died in 1992. Quite apart from the petitioner, his father was also survived by his widow/mother of the petitioner, Pappa and four other sons Vijayaragavn, Vishanathan,



Gunasekaran and Chendran. It is claimed that Chellammal, Muniyammal and Chellamuthu, who is the husband of Neela received $\frac{3}{4}$ share and executed release deeds on 27.03.2006. Thereafter, on 28.03.2006, a partition deed had been executed among the other owners including the petitioner and each one of them were allotted shares. Thereafter, again since the property was enjoyed as joint family property, joint patta was issued.

4. There was yet another partition on 07.12.2015. This document was presented for registration but second respondent had kept it pending and sought a clarification from the first respondent and refused to treat it as a partition deed but treated it as a Sale deed and further ordered that the worth of the property is Rs.40,11,605/- and, necessary stamp duty and registration charges will have to be paid. An order in this regard was also passed. Thereafter, the petitioner gave a representation questioning that particular order after nearly four years in the year 2020, i.e., on 28.12.2020. An order was passed on 04.01.2021 by the first respondent/District Registrar, Periyakulam Registration District rejecting the representation given by the petitioner and directing the petitioner to file a regular appeal in accordance with the provisions of the Registration Act. Questioning the earlier order of the year 2016, the present writ petition has been filed.

5. A perusal of the facts mentioned above would certainly cause a little confusion to anybody who reads at. There have been so many members of the family who have entered into various transactions/documents and have registered documents releasing their rights, retaining their rights, partitioning the properties and also, stating that cash could be received by them in lieu of property. Naturally, the Sub Registrar had come to a conclusion that a partition deed presented after all these transactions should be treated as a sale at least insofar as those individuals who are shown as co-owners but who had actually released their right and title by executing release deeds. These are issues which can be resolved only by the officials of the Registration Department and it is for that particular purpose that an Appellate Authority is provided. The petitioner may very well approach the said Appellate Authority.

6. The petitioner naturally would feel apprehensive that the point limitation would be put against the petitioner here. The order of 04.01.2021 may be questioned in further appeal by the petitioner herein and the petitioner may take advantage of the filing of this writ petition which was on 20.10.2021 and may also if some of the period falls within the lockdown period, impress upon the Appellate Authority that benefit of such period should be granted to petitioner and also claim that the period from the date of filing of the writ petition till the date of passing of this order should be exempted owing to the petitioner having prosecuted



petitioner to the extent possible to which it can be availed, and impressing upon the petitioner that it would be only to his advantage that he files a regular appeal before the Appellate Authority in accordance with the provisions of Registration Act, the Writ Petition is disposed of. No costs.

WEB COPY

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mnr

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,
Periyakulam Registration District,
Theni District.
2. The No.1 Joint Registrar,
Periyakulam Registration Office,
Periyakulam.

+1 CC to M/s.SPL GP (SR-37762[F] dated 08/12/2021)

W.P. (MD).No. 18970 of 2021

07.12.2021

MGJ(07.01.2022) 3P 4C