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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.9564 of 2022
and W.M.P.Nos.9296 and 9297 of 2022

1. N.Thangaraj
2. N.Mani
3. N.Loganathan
4. N.Ayyathurai

... Petitioners

Vs.

1. The Deputy Inspector General of Registration,
Race Course,
Coimbatore-18.
2. The District Registrar (Administration),
Tiruppur,
Tiruppur District.
3. The Sub Registrar,
Uthukulli,
Tiruppur District.
4. Pappal
5. Poongodi

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the third respondent herein not to admit any document for registration to be execute by the fourth and fifth respondents with respect to S.No.183/2 of Agrahara Periyapalayam Village, Uthukuli Taluk, Tiruppur District pending disposal of the Appeal in No.No.1130/C2/2022 on the file of the first respondent dated 07.03.2022.

For Petitioners : Mr.V.P.Sengottuvel

For R1 to R3 : Mr.Yogesh Kannadasan
Special Government Pleader



ORDER

This Writ Petition has been filed to issue a Writ of Mandamus, directing the third respondent herein not to admit any document for registration to be executed by the fourth and fifth respondents with respect to S.No.183/2 of Agrahara Periyapalayam Village, Uthukuli Taluk, Tiruppur District, pending disposal of the Appeal in No.No.1130/C2/2022 on the file of the first respondent dated 07.03.2022.

2. Mr.Yogesh Kannadasan, learned Special Government Pleader takes notice for the respondents 1 to 3. In view of the limited relief sought for in this petition, on the consent expressed by the Learned counsel appearing for either side, this petition is taken up for final disposal. Since, no adverse order is passed against the respondents 4 and 5, notice on respondents 4 and 5 is dispensed with.

3. The case of the petitioner is that the agricultural lands measuring an extent of 8.23 Acres comprised in S.Nos.183/1, 183/2, situated at Agrahara Periyapalayam Village, Uthukuli Taluk, Tiruppur District, was jointly purchased by the petitioners' father and his two brothers vide Sale Deed dated 13.07.1953 registered as Document No.844 of 1953 on the file of the Sub-Registrar, Uthukuli. Thereafter, the petitioners' father executed a Will dated 23.12.1972 and bequeathed his 1/3rd share covered under Sale Deed dated 13.07.1953 in favour of his four sons. Thereafter, the petitioners' father died on 10.05.1953. Immediately after his death, the Will dated 23.12.1972 came into operation and thereafter there was an oral partition between the petitioners and the other legal heirs and they were allotted 1/3rd share of the agricultural land in the year 1993. Thereafter, on 25.06.1993, with the consent of other petitioners, the third petitioner, sold an extent of 0.50 acres of land to the third parties. Thereafter, in the year 2020, the petitioners entered into a Partition Deed, dated 14.07.2020 registered vide Document No.1932 of 2020 on the file of the Sub-Registrar, Uthukuli. As per the Partition Deed, the petitioners 1, 3 and 4 were allotted 0.27.36 Hectares and the third petitioner was allotted 0.07.12 Hectares, after deducting the 0.50 acres of land which was sold by the third petitioner.

4. Thereafter, the fourth and fifth respondents based on ill advice, threatened the petitioners to create encumbrance over the schedule properties. Subsequently, the fifth respondent issued notices to the petitioners claiming share in the above said properties on 09.01.2020 and 24.09.2020. Thereafter, the fourth petitioner filed a suit for declaration and partition against the fourth and fifth respondents herein in O.S.No.389 of 2021 on the file of the Principal District Judge, Tiruppur and



the same is pending consideration. Pending the suit, the fourth and fifth respondents filed a complaint before the second respondent seeking cancellation of Partition Deed, dated 14.07.2020 in Document No.1932 of 2020 executed by the petitioners, on the ground that the petitioners have fraudulently executed the Partition Deed, thereby depriving the rightful share of the fourth and fifth respondents in the schedule properties. After conducting enquiry, the second respondent by an order dated 09.02.2022, erroneously cancelled the Partition Deed holding that the petitioners created a fraudulent document and thereby committed an offence under Sections 82 and 83 of the Registration Act. Aggrieved by the same, the petitioners preferred an appeal before the first respondent on 12.03.2022. Pending the appeal, the fourth and fifth respondents tried to alienate the property in favour of third parties on the file of the third respondent. The third respondent also entertained the said documents and registered an Agreement for Sale. Aggrieved by the same, the present petition is filed.

5. The learned counsel for the petitioner submitted that it would suffice if this Court issues direction to the first respondent to dispose of the appeal filed by the petitioners within a particular time frame fixed by this Court and permit the petitioners to canvas all the points before the first respondent with regard to registration of sale agreement by the third respondent.

6. Considering the facts and circumstances of the case, in view of the limited relief sought for, this Court without going into the merits of the case, permits the petitioners to canvas all the points before the first respondent and the first respondent is directed to dispose of the appeal filed by the petitioners dated 12.03.2022, after giving an opportunity of hearing to the petitioners and the fourth and fifth respondents herein and pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above directions, this writ petition stands disposed of. Consequently, connected Miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar



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Coimbatore-18.
2. The District Registrar (Administration),
Tiruppur,
Tiruppur District.
3. The Sub Registrar,
Uthukulli,
Tiruppur District.

+1cc to Mr.V.P.Sengottuvel, Advocate, S.R.No.26832

+1cc to the Government Pleader, S.R.No.27550

+1cc to the Government Pleader, S.R.No. 28152 [09/06/2022]

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NR(CO)
TE(22/04/2022)