



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.05.2022

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Writ Petition No.12742 of 2022

Anusha Rajinikanth,  
W/o.Rajinikanth Ramasubramanian  
represented through her Power Agent  
M.P.Raja Suresh  
S/o.Ponnu Muthaiyan ...Petitioner

-Vs-

1. The District Registrar/Assistant Inspector General,  
Registration Department,  
Collectorate Campus,  
Coimbatore.
2. The Sub-Registrar,  
Ganapathy,  
Coimbatore North Taluk,  
Coimbatore. ...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order vide Letter No.11211/Aa1/2021 dated 07.04.2022 passed by the first respondent and quash the same as illegal and consequently direct the second respondent to register the sale deed vide document Nos.P29 and P30/2018 presented on 05.09.2018 and release the same forthwith within the time frame as fixed by this Hon'ble Court.

For Petitioner : Mr.M.Sricharan Rangarajan  
for Mr.D.Saravanan

For Respondents : Mr.D.Ravichander  
Special Government Pleader

O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the respondents.

2.The petitioner/Anusha Rajinikanth purchased the subject property from one Santhalingam, S/o.V.K.Periyasamy Gounder. The



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said vendor claimed the property under settlement deed executed by his father. The settlor had given life estate in favour of his wife ie., Santhalingam's mother. It appears that the said lady had alienated the property in favour of third parties. Thus arose a dispute between Santhalingam on the one hand and the alienees on the other. In stead of seeking resolution before the Civil Court, the matter was contested before the revenue authorities. Santhalingam succeeded before the jurisdictional Tahsildar and got the mutation effected in his favor. He however lost before the jurisdictional District Revenue Officer, who by the interim order dated 15.10.2018 directed deletion of the name of Santhalingam from the revenue records. This interim order was put to challenge in W.P.Nos.27905 and 28326 of 2018. Vide order dated 15.11.2021, the order of the District Revenue Officer was set aside in the following terms:

"10. In view of the above, the impugned order dated 15.10.2018 cannot be sustained as against the petitioner and it is liable to be quashed. Accordingly, the impugned order in N.K.19233/2018/C1, dated 15.10.2018 of the second respondent is hereby quashed.

11. Insofar as W.P.No.27905 of 2018 is concerned, the fourth respondent is directed to include the name of the petitioner as Joint Pattadhar and directed to maintain the status quo in respect of the mutation of revenue records in respect of the subject property in Patta numbers 1137, 946, 734, 112, 1028, 1029, 956, 870, 1215, 1207, 1206, 749, 935, 936, 881, 1205, 1007, 755, 119, 325, 308, 158, 838, 816, 355, 536 and 742 in respect of the properties in Survey No.2/3 etc having total extent of 41.83 acres in Vilankurichi Village in Coimbatore (North) Taluk in Coimbatore District, till the disposal of the revision pending before the second respondent herein.

12. The second respondent is directed to issue fresh notice to the petitioner and the respondents 5 to 14 herein within a period of two weeks from the date of receipt of a copy of this order. After giving them an opportunity of hearing and pass orders on merits and in accordance with law within a period of twelve weeks thereafter.

13. With the above directions, both the writ petitions are allowed. Consequently, connected Miscellaneous petitions are closed. There shall be no order as to costs."

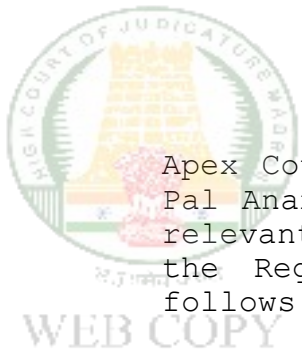


3. During the pendency of these proceedings, Santhalingam sold the subject property in favour of Anusha Rajinikanth under sale deed dated 05.09.2018. It was presented for registration before the second respondent on the same day. Since the rival parties had lodged objections, the sale deed was kept as pending document. The impugned cheque refusal slip was issued on 03.06.2020. Questioning the same, the petitioner filed an appeal before the first respondent. By the impugned order dated 07.04.2022, the first respondent sustained the stand of the second respondent. That led to filing of the present writ petition.

4. A reading of the contents of the impugned order would indicate that it rests substantially on the order dated 15.10.2018 passed by the District Revenue Officer. Though the said order was set aside as early as on 15.11.2021, the first respondent has chosen to rely on the same in the impugned order, which was passed on 07.04.2022. In other words, an order that has been set aside in a writ petition forms the basis for the impugned order. This is good enough reason for me to set aside the order impugned in the writ petition. It is accordingly set aside.

5. Now the question is whether the second respondent could have withheld the registration of the document on the ground that the executant of the document has no title. This issue was considered by the Hon'ble Division Bench of Patna High Court in the decision reported in AIR 1989 Patna 174 (Bihar Deed Writers Association Vs State Of Bihar And Others). It was held therein that if a document otherwise complying with the statutory requirements and formalities is presented for registration, the registering authority is bound to register it. It is not for the registering authority to enquire and ascertain the title of its own satisfaction under the provision of Transfer of Property Act, 1888. If the transferee does not have title or imperfect title to the property, the transferee on transfer will either get no title or will get an imperfect title. This will be to the prejudice of the transferee and is not of any concern to the registering authority. Referring to Section 68 of the Registration Act 1908, it was observed that it is an administrative power conferred on the registrar to exercise superintendent control over the sub registrars. The registrar cannot exercise any power under the said section to direct the sub registrars to register a document presented for registration if the document complies with the statutory requirements and formalities. This judgment was followed in the decision reported in AIR 2010 Jharkhand 56 (Shakuntala Devi Vs. State of Jharkhand and Others).

6. The issue was also authoritatively decided by the Hon'ble



Apex Court in the decision reported in (2016) 10 SCC 767 (Satya Pal Anand Vs. State of M.P and Others). After referring to the relevant statutory provisions such as Sections 34, 35 and 36 of the Registration Act, 1908, the Hon'ble Apex Court held as follows:-

"Section 35 of the Act does not confer a quasi-judicial power on the Registering Authority. The Registering Officer is expected to reassure that the document to be registered is accompanied by supporting documents. He is not expected to evaluate the title or irregularity in the document as such. The examination to be done by him is incidental, to ascertain that there is no violation of provisions of the Act of 1908. In the case of Park View Enterprises v. State of Tamil Nadu (AIR 1990 Madras 251) it has been observed that the function of the Registering Officer is purely administrative and not quasi-judicial. He cannot decide as to whether a document presented for registration is executed by person having title, as mentioned in the instrument. We agree with that exposition."

7. Reference was also made to Rule 55 of the Tamilnadu Registration Rules, 1983, which is as follows:-

"55. It forms no part of a registering officer's duty to enquire into the validity of a document brought to him for registration or to attend to any written or verbal protest against the registration of a document based on the ground that the executing party had no right to execute the document; but he is bound to consider objections raised on any of the grounds stated below:-

(a) that the parties appearing or about to appear before him are not the persons they profess to be;

(b) that the document is forged;

(c) that the person appearing as a representative, assign or agent, has no right to appear in that capacity;

(d) that the executing party is not really dead, as alleged by the party applying for registration; or

(e) that the executing party is a minor or an idiot or a lunatic;"

8. I therefore hold that the second respondent could not have



refused to register the sale deed presented by the writ petitioner. Accordingly, the order impugned in the writ petition is set aside and the writ petition is allowed. The second respondent is directed to register the petition mentioned sale deed subject to compliance of other formalities.

9.I place on record the undertaking given by the writ petitioner through her counsel that the petitioner would not alienate or encumber the subject property in any manner till the revenue proceedings attain finality. No costs.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The District Registrar/Assistant Inspector General,  
Registration Department,  
Collectorate Campus,  
Coimbatore.

2. The Sub-Registrar,  
Ganapathy,  
Coimbatore North Taluk,  
Coimbatore.

+2ccs to Mr.D.Ramesh Kumar, Advocate, S.R.No.31458 [10/06/2022]

+1cc to the Government Pleader, S.R.No.31552 [10/06/2022]

W.P.No.12742 of 2022

SSI (CO)  
SP(06/06/2022)