

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM :

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.14784 of 2022
and
W.M.P.No.13980 of 2022

M.Uma Balaji

... Petitioner

Vs.

1. The Sub Registrar,
Sub Registrar's Office,
Purasawalkam,
Chennai 600 012.

2. Mrs.M.Leelavathy

3. Mrs.S.Geetha

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the first respondent to consider the representation of the petitioner dated 11.08.2021 and subsequent legal notice dated 19.05.2022 and not to register any kind of documents in respect of the property comprised in Survey No.445/3, (T.S.No.443/3), Block No.24, Ward No.1, Perambur Village and Taluk, Chennai bearing No.27/46, Paddy Field Road, Perambur, Chennai 600 011.

For Petitioner : Mr.T.Srinivasan
For R1 : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This Writ Petition has been filed seeking for the issuance of a Writ of Mandamus to direct the first respondent to consider the representation of the petitioner dated 11.08.2021 and subsequent legal notice dated 19.05.2022 and not to register any kind of documents in respect of the property comprised in Survey No.445/3, (T.S.No.443/3), Block No.24, Ward No.1, Perambur Village and Taluk, Chennai bearing No.27/46, Paddy Field Road, Perambur, Chennai 600 011.

2. The case of the petitioner is that the petitioner's grandmother Late. Mohanammal, had purchased the aforesaid property from one Appayyaraju in the the year 1948, and the same was registered through Sale Deed, vide Document No.686/1948, on the file of Sub Registrar Office, Periamet. The petitioner is the son of second respondent and the brother of third respondent herein. Due to age ailments, the petitioner's grandmother Late. Mohanammal, who is the mother of second respondent, in her life time, had executed a Will in favour of the petitioner and the third respondent by appointing the second respondent as a legal guardian. However, the second respondent ignored the contents of the Will and decided to settle the property in favour of the third respondent. Hence, objecting the same, the petitioner has filed the present Writ Petition.

3. Since no adverse order is being passed against the private respondent, notice to the private respondent is dispensed with.

4. The learned counsel for the petitioner submitted that the third respondent is the co-shareholder of the disputed property. However, the act of second respondent has decided to settle the property in favour of third respondent, by way of Will is not sustainable one. Therefore, the petitioner made a representation dated 11.08.2021 before the first respondent/Sub-Registrar, seeking not to register any kind of documents in respect of the aforesaid property and sent a legal notice dated 19.05.2022 before the respondents. Hence, the petitioner filed this Writ Petition seeking for the aforesaid relief.

5. The learned Special Government Pleader appearing for the first respondent would submits that the issue arises in the present case is purely Civil dispute among the family members, which has to be ventilated only by the Competent Civil Court. He further submitted that the Omnibus prayer cannot be granted, and the first respondent is bound to register the document as per the Registration Act. Accordingly, he prays for dismissal of this Writ Petition.

6. Heard the learned counsel for the petitioner as well as the learned Special Government Pleader appearing for the first respondent and perused the materials available on record.

7. The facts in the present case are not in dispute. Admittedly, the private respondents are family members of the petitioner, which is also not in dispute. The petitioner claims that his grandmother appointed the second respondent as legal guardian for the Will executed in favour of his sister and himself. However, it is alleged that the second respondent

decided to settle the property in favour of the third respondent. These disputed questions of facts cannot be decided under Article 226 of the Constitution of India. Therefore, the prayer sought for in this Writ Petition cannot be granted.

8. Accordingly, this Writ Petition is dismissed. However, liberty is granted to the petitioner to work out the remedy in the manner known to law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

The Sub Registrar,
Sub Registrar's Office,
Purasawalkam,
Chennai 600 012.

+1cc to Mr.T.Srinivasan, Advocate, S.R.No.35174

+1cc to the Government Pleader, S.R.No.36590

W.P. No.14784 of 2022
and
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RK[co]
NSK/15/07/2022