



W.P.No.7788 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2022

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.7788 of 2016

and

W.M.P.No.6954 of 2016

1. Kalasa Muthukali
2. Lakshmi
3. Kalasa Thiruman,
4. Kalasa Lakshmi,
5. Dhanakodi

. . . Petitioners

Vs.

1. The Inspector General of Registration,
20, Santhome Road,
Chennai-600 028.
2. The District Registrar,
(Administration)
Namakkal,
Namakkal District.
3. The Sub Registrar,
Sub Registrar Officer,
(Camp at Kolli Hills),
Sengadamangalam.
Namakkal District.



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4. D. Muthukumar

5. Nagalakshmi

. . . Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order made in Se.Mu.Aa.No.2783/A1/2015 dated 25.11.2015 passed by the 2nd respondent, quash the same and consequently direct the 4th respondent to avail the common law remedy in the manner known to law.

For Petitioner : M/s. N.Manokaran

For Respondents : Mr.Yogesh Kannadasan

Special Government Pleader for R1 to R3

: M/s. T.Dhanyakumar for R4 & R5

ORDER

The present petition has been filed seeking to quash the impugned order dated 25.11.2015 passed by the 2nd respondent and to direct the 4th respondent to avail the common remedy available in the manner known to law.



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2. It is the case of the petitioners that they are the owners of the subject properties situated in S.F.Nos.394, 395B, 395A2B, 396, 412 & 417/2 and the 1st petitioner had executed a settlement deed dated 03.04.2004 in favour of his wife who is the 2nd respondent and the 3rd petitioner had executed a settlement deed in favour of his daughters who are the petitioners 4 & 5. Since then, the petitioners 2, 4 & 5 are in possession of the above said properties. While being so, the 4th respondent had filed a partition suit in O.S.No.67 of 2014 on the file of the learned District Munsif Court, Namakkal seeking separate possession in respect of the lands in S.F.Nos. 394, 395/B and 396 alleging that the said lands were purchased by respondents 4 & 5 from one Jothiraj, and the suit is pending. During the pendency of the suit, the 4th respondent, had submitted a petition dated 30.05.2015 to the 2nd respondent alleging that the properties in S.F.Nos.394, 395/B, 395/A2B & 396 to the total extent of 7.53 Acres owned by the petitioners 1 & 3 was brought in the court auction and the said lands were sold to one Muthusamy who had executed a Power of Attorney in favour of one Sivaprakasam who executed a sale deed in favour of said Jothiraj who, inturn, had sold the said



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lands to the petitioners 4 & 5. Pursuant to the petition dated 30.05.2015, the 2nd respondent had passed the impugned order dated 25.11.2015 directing the 3rd respondent to take necessary action against the petitioners based on the circular No.67 dated 03.11.2011. Challenging the said impugned order, the petitioners have come up with the present petition.

3. Learned counsel for the petitioners submitted that the order impugned in this Writ Petition has been passed based on the Circular No.67 dated 03.11.2011, however, the said circular, which was issued by the Office of the Inspector of General of Registration was withdrawn on 20.10.2017. Hence, the order impugned in this Writ Petition is not sustainable, as the said circular itself is not in force as on date and therefore the order impugned in this Writ Petition needs interference

4. On the above contentions, this Court heard the learned counsel appearing for the respondents and perused the materials available on record.

5. It is fairly conceded by the learned Additional Government



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Pleader that the Circular No.67 dated 03.11.2011 has since been withdrawn on 20.10.2017 and therefore, as on date, the Circular No.67 is not in force even prior to the passing of the impugned order. For the reasons aforesaid, the order impugned in this Writ Petition is liable to be interfered with and the same is accordingly set aside. However, liberty granted to the private respondent to workout the remedy in the manner known to law.

6. This Writ Petition is allowed in the above terms. No Costs.

Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes / No

Internet : Yes / No



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To

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M.DHANDAPANI, J.

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