



WEB COPY



W.P.No.24635 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.09.2022

C O R A M

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.24635 of 2022

Sasikala

... Petitioner

Vs

1. The Sub Registrar
Redhills Sub Registrar Office, Redhills.
Chennai 52.
2. The Sub-Registrar,
Manavala Nagar Sub Registrar Office,
Redhills, Chennai 52
3. The Inspector of Police,
District Crime Branch, Tiruvallur District,
Tiruvallur 602 001.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ, order or direction in the nature of Writ of Certiorarified Mandamus calling for the records of the 1st Respondent in the impugned proceedings in Serial Number RFL/ Redhills/ Book 2 /2 dated 22.03.2022 in respect of returning the settlement deed without registration and quash the same as arbitrary and illegal and also violation of principles of natural justice and consequently direct the 1st respondent to register the settlement deed dated 12.08.2021 and release the same to the petitioner.

Page No:1/10



W.P.No.24635 of 2022

For Petitioner ... M/s. R.Munusamy

For Respondent ... Mr. E.Vijay Anand, AGP RR1 & 2
Mr.T.K.Saravanan, GA R3

ORDER

The present petition has been filed seeking the relief of quashment of the impugned proceedings in Serial Number RFL/ Redhills/ Book 2 /2 dated 22.03.2022 in respect of returning the settlement deed without registration and consequently, direct the 1st respondent to register the settlement deed dated 12.08.2021 and release the same to the petitioner.

2. Mr. E.Vijay Anand, learned Additional Government Pleader takes notice for the respondents 1 & 2 and Mr.T.K.Saravanan, learned Government Advocate takes notice for the 3rd respondent.

3. It is the case of the petitioner that the petitioner is a widow and she is one of the daughter of Munusamy Naidu and Kanthammal and the said Munusamy Naidu died in the year 1971 and the said Kanthammal died in the



W.P.No.24635 of 2022

year 1987. The said Munusamy Naidu had three daughters including the petitioner and two sons. The petitioner is entitled to 1/5 share in the estates of her deceased parents. The petitioner requested and demanded her brothers and sisters for amicable partition. But the brothers of the petitioner did not cooperate for partition and hence, the petitioner along with another sister jointly filed a suit in O.S.No.456 of 1989 on the file of the District Munsif Court, Ponneri against her brothers and sister for partition and separate possession. After contest, a preliminary decree was passed on 25.07.2006 wherein it was declared that the petitioner is entitled to 1/5th share in the estates of her deceased parents. The petitioner has filed E.P.No.2 of 2015 to deliver her share in the suit schedule properties and the same is pending. In the meanwhile, the petitioners brothers have filed appeal before the Principal Sub Court, Ponneri in A.S.No.17 of 2015 against the final decree passed in O.S.No.456 of 1989. After full-fledged arguments, the appellate Court was pleased to dismiss the said appeal.

4. It is the further case of the petitioner that during the year 2020, the petitioner came to know that the second respondent had illegally entered into a sale transaction with the third respondent under a sale deed dated 03.02.2020.



W.P.No.24635 of 2022

The said deed was made in favour of the Trust owned by the third respondent in respect of the subject land in S.No.196/7 of Nayapakkam Village. The second respondent along with the third respondent had created a forged patta for the said property in his name and created a sale deed. Therefore, the petitioner made a representation dated 26.02.2020 to the Revenue Divisional Officer and Tahsildar, Ponneri to make an enquiry regarding genuineness and legal validity of the legal heirship certificate, which was produced by the second respondent. However, no order was passed and hence, the petitioner filed a writ petition before this Court in W.P.No.15647 of 2020. This Court, vide its order dated 29.01.2021, issued a direction to the RDO to conduct enquiry and pass appropriate orders. In the meanwhile, based on the fraudulent sale deed, the first respondent changed the patta in favour of the third respondent. Thereafter, the District Crime Branch registered a case in Cr.No.4/2021 against the respondents 2 & 3 based on the complaint made by the petitioner. Thereafter, the petitioner made a representation on 26.02.2020 to the first respondent and others to cancel the patta. The petitioner filed another petition in CrI.OP.No.14762 of 2021 before this Court against the 3rd respondent for speedy investigation in Cr.No.4 of 2021. Immediately upon the direction issued by this Court, the 3rd respondent advised the petitioner's brother



W.P.No.24635 of 2022

to cancel the said sale deed and accordingly, the said sale deed 15.09.2021 was cancelled. After cancellation of the said sale deed, the petitioner executed a settlement deed, dated 12.08.2021 and paid necessary registration charges presented for registration before the first respondent. The first respondent admitted the document for registration and kept it pending for clearance from the second respondent and sought for remarks. In turn, the second respondent sent a letter dated 18.08.2021 to the first respondent stating that the 3rd respondent, vide his letter dated 22.07.2021, sent a communication to them not to entertain any document for registration in respect of the said survey number in view of the pendency of the criminal case. Based on the said communication, the first respondent, vide its proceedings dated 22.03.2022, refused to register the settlement deed in view of the pendency of the criminal case. Challenging the said refusal check slip dated 22.03.2022, the petitioner has filed the present writ petition.

5. Learned counsel for the petitioner submits that the first respondent has failed to note that the suit which was filed by the petitioner for partition has ended in her favour. Further, the disputed property is the ancestral property of the petitioner and therefore, she is also entitled to get the said property. That



W.P.No.24635 of 2022

being the case, the petitioner only has lodged a complaint before the third respondent to take action against the persons, who dealt with the property in S.No.196/7 of Nayappakkam Village. Mere pendency of the criminal case cannot be a ground for refusing the registration of the settlement deed. Further, in the absence of any restrained order from any of the Court, the first respondent refused to register the settlement deed and issued the Refusal Check Slip and the same is liable to be quashed and this Writ Petition may be allowed.

6. Learned Additional Government Pleader appearing for the official respondent herein submits that the third respondent sent a communication to the second respondent on 22.07.2021 and in turn, the second respondent sent a letter to the first respondent not to entertain any document for registration in respect of the above said survey number in view of the pendency of the criminal case. Therefore, the Refusal Check Slip issued by the first Respondent/the Sub Registrar cannot be found fault with and therefore, the order impugned in this Writ petition needs no interference of this Court and deserves to be dismissed.



W.P.No.24635 of 2022

WEB COPY

7. Heard the learned counsel on the either side and perused the materials available on record.

8. The issue in this case no longer *res integra* as the similar issue was considered by this Court in the case of ***Vadamugam Vellode NalukaraiNattu Goundergal Sangam Vs Inspector General of Regisration, 2021 (1) CTC 535*** in W.P.No.12585 of 2020 & W.M.P.Nos.15518 & 15521 of 2020. The relevant portion of the order is extracted under as:

10. The 5th Respondent has approached the Civil Court and he has file O.S.No.48 of 2019, seeking for the relief of Partition and separate posession of 1/27th share in the Suit properties. It is also seen that the 5th Respondent has filed yet another Suit in O.S.No.58 of 2017 in which kshe has claimed for the relief of Permanent Injunction restraining the Defendants not to alienate the Suit Properties. In both the Suits, there is no Order passsed by the Competent Civil Court injuncting from dealing with the Suit properties. What the 5th Respondent was not able to achieve before the Civil court is now sought to be achieved through the 3rd Respondent by virtue of a Letter given before this Court, dated 21.02.2020. The 3rd Respondent is a Statutory Authority, who has to strictly perform his function in accordance with law. This Court exercising its jurisdiction under Article 226 of Constitution of India can never prevent a Statutory Authority from performing his function. Therefore unless and otherwise a Competent Civil Court passes any Interim Order restraining the



WEB COPY



W.P.No.24635 of 2022

alienation of the property, the 3rd Respondent has to entertain the documents and register the same, if it is otherwise in order. Ultimately, even if the suit is decreed, the transaction will be subject to the Rule of les pendens. There is no law in force which says that no transaction can take place during the pendency of the suit. That is exactly why Section 52 of the Transfer of Property Act, provides a solution for transactions that take place during the pendency of the suit.

11. In view of the above discussion, the impugned Letter of the 3rd Respondent, dated 21.02.2020 is hereby quashed and the 3rd Respondent is directed to entertain the documents submitted for registration and register the same, if it is otherwise in order. It goes without saying that the necessary Stamp Duty and Registration Fee will be paid at the time of submitting the document for registration.

12. This Writ Petition is accordingly allowed. No Costs. Consequently, the connected Miscellaneous Petitions are closed.

9. It is the claim of the petitioner that the pendency of the criminal case with respect to the subject property cannot be a bar for registration of the document related to the very same property, however, on going through the facts and circumstances of the present case on hand, this Court is of the view that the petitioner has filed a partition suit and the same was ended in her favour. Challenging the same, the aggrieved parties filed an appeal and the same was dismissed. There is no suit pending in respect of the subject



W.P.No.24635 of 2022

properties and therefore, in the absence of any restrained order from the any of the Court, the refusal to register the document citing the pendency of the criminal case is not sustainable.

10. Accordingly, this Writ Petition is allowed in the above terms and the first respondent/Sub Registrar, Redhills, Chennai, is directed to entertain the document on payment of necessary stamp duty and registration charges, if there is no restrained order passed. No Costs.

27.09.2022

rli
Index:Yes/No
Internet:Yes
Speaking/Non-Speaking order

To

- 1 The Sub Registrar
Redhills Sub Registrar Office, Redhills.
Chennai 52.
- 2 The Sub-Registrar,
Manavala Nagar Sub Registrar Office,
Redhills, Chennai 52
- 3 The Inspector of Police,
District Crime Branch, Tiruvallur District.

Page No:9/10



WEB COPY



W.P.No.24635 of 2022

M.DHANDAPANI, J.

rli

W.P.No.24635 of 2022

27.09.2022