



WEB COPY



W.A.No.2906 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY
W.A.No.2906 of 2021

Damayanthi

.. Appellant

VS

1. The Inspector General of Registration,
Department of Registration,
No.100, Santhome High Road,
Mylapore, Chennai 600 004.

2. The District Registrar,
Kancheepuram Registration District,
Arasu Nagar, Thandavaraya Nagar,
Kancheepuram 631 601.

3. The Sub Registrar,
Tiruthani Sub Registrar Office,
No.31, Kutchery Street,
Tiruttani 631 209.

4. K.Lakshmikanth
(R-4 impleaded as per order of
Court dated 09.02.2022 in
CMP.No.20565/2021)

.. Respondents



W.A.No.2906 of 2021

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 06.09.2021 passed in W.P.No.16390 of 2021 on the file of this Court.

For the Appellant : Mr.M.L.Ramesh
For the Respondents : Mr.Yogesh Kannadasan
Spl. G.P. (R) and
Mr.R.Kumaravel,
Addl. G.P. (R) for RR 1 to 3
: Mr.S.Diwakar for R-4

* * * * *

JUDGMENT

(Judgment of the Court was delivered by
the Hon'ble Acting Chief Justice)

By this writ appeal, a challenge is made to the order dated 06.09.2021 by which the writ petition was disposed of with a direction to the first respondent to consider the representation of the appellant dated 13.07.2021 and dispose of the same within a stipulated time.



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2. The learned counsel for the appellant submits that a settlement deed was executed in favour of his daughter and presented for registration. The third respondent refused to register the document in the absence of production of the original title deed of the property. It is despite the fact that the co-sharers have settled their share in the property in question. The elder brother had executed a settlement deed and got it registered also. The appellant wants to settle a part of the property that belongs to him in favour of his daughter, but the settlement deed is not registered in the absence of the original document. Referring to the judgment of this Court, it is submitted that the Registrar cannot insist for production of the original title deed for registration of the document and ignoring the direction given therein, the refusal was made. The appellant challenged the order of the Registrar, though while filing the writ petition only a representation was given along with the required details of the property and copies of documents in possession of the appellant. It was with the allegation that the original deed is in possession of his brother and therefore, it cannot be produced by him. The learned Single Judge issued a direction to the Registrar for consideration of the



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representation without deciding the issue as to whether he can insist upon the production of the original title deed. The appeal has been filed only for the said reason seeking direction on the Registrar for registration of the settlement deed.

3. The learned counsel appearing for the fourth respondent submits that he is the brother of the appellant and is sought to be impleaded as a party respondent in the appeal. He submits that the fourth respondent has no objection if the part of the property shown in the settlement deed is registered in favour of the appellant's daughter. However, it is with the clear statement that he is not in possession of the original title deed rather it may be lying with someone else.

4. The learned counsel appearing for the State submits that unless the original title deed or no objection from the co-sharers is produced by the appellant, the registration of the settlement deed cannot be made.

5. We have considered the rival submissions of the parties and perused the records.



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6. The settlement deed executed by the appellant in favour of the daughter for a portion of the property given in his share has not been registered by the Registrar and the order passed therein was challenged before the learned Single Judge. The said issue was not addressed in the impugned order though a discussion has been made because the final direction is only for consideration of the representation of the appellant though the prayer sought was for registration of the settlement deed. When the co-sharers to the property are not having any objection to the registration of the settlement deed rather one of the parties had even settled and executed a settlement deed of his portion of the property and registered the same, the Registrar was required to register the settlement deed executed by the appellant also without insisting for production of the original title deed. It is more so when the record shows the property in the name of the co-sharers includes the portion of the property to the appellant.

7. In view of the above, we find reasons to cause interference in the impugned order and accordingly, we allow the appeal with a



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direction to the Registrar to register the settlement deed executed by the appellant in regard to his share of the property in favour of his daughter. The direction aforesaid would be complied within two months from the date of receipt of a copy of this order. No costs.

(M.N.B., ACJ.) (D.B.C., J.)
09.02.2022

Index : Yes/No
sra

To:

1. The Inspector General of Registration,
Department of Registration,
No.100, Santhome High Road,
Mylapore, Chennai 600 004.
2. The District Registrar,
Kancheepuram Registration District,
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M.N.Bhandari, ACJ.
and
D.Bharatha Chakravarthy, J.

(sra)

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