



W.P.No. 24995 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 16.09.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No. 24995 of 2022

and

W.M.P.Nos.23927 to 23929 of 2022

1. Venkatachalapathi
2. V.Selvi

.. Petitioners

Versus

1. The District Registrar,
Cuddalore (Administration)
Thiruppadiripuliyur
Cuddalore-607 002.
2. The Sub-Registrar,
Joint-II, Thiruppadiripuliyur
Cuddalore - 607 001.
3. Indirani
4. Kasthuri
5. S.Sivakumar
6. P. Balasubramanian

.. Respondents

Writ Petition is filed Under Article 226 of the Constitution of



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India, praying to issue a Writ of Certiorari, to call for the records and quash the impugned order dated 11.04.2022 passed by the first respondent in Na.Ka.No.688/Aa1/2021.

For Petitioners : Mr.R.S. Pandiyaraj

For RR 1 and 2 : Mr.C.Jayaprakash
Government Advocate

ORDER

This writ petition has been filed challenging the order in Na.Ka.No.688/Aa1/2021, dated 11.04.2022 passed by the first respondent and quash the same.

2. Since no adverse order is being passed against the private respondents, notice to them respondents is dispensed with.

3. The case of the petitioners is that the properties belonged to Dhandapani Chettiar, who had three sons, namely, Subramanian, Chakrapani and Jayapal. The properties in dispute is between the legal heirs of Subramanian and his three sons. The eldest son Rajendran died without being married. The petitioner is the second son. The fifth



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respondent is the 3rd son and the respondents 3 and 4 are the widow and daughter of Subramanian. On 30.10.1963, Dhandapani Chettiar executed a WILL which was registered and it also transpires that he has executed another Will dated 17.09.1967 which does not seem to have been registered. The testator has not given any specific items to any beneficiary. He has mentioned the proportion in which the beneficiaries have to enjoy the benefits. The beneficiaries did not adhere to the recitals in the Wills. While so, the sons of Dhandapani Chettiar entered into a partition by means of a registered Partition Deed dated 27.08.1986. In the Partition Deed, the petitioner's father was allotted properties under "A" schedule. The allotment to his father includes three items, which are the subject matter of dispute. The petitioner and the respondents 4 and 5 have filed a suit in O.S.No.5 of 1996 before the Sub Court, Cuddalore, for partition and separate possession against his elder brother and others and the said suit was dismissed for default. Thereafter, the disputed properties were orally partitioned among the legal heirs as per the Compromise entered into between the parties. As per the oral partition, Item Nos. 1 and 3 in S.No.193/2 Ac.0.15 and S.No.193/4 Ac.0.35 fell to the petitioner's share, while item 2 in S.No.190/2 Ac.0.51 fell to the 5th



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respondent's share. The respondents 3 and 4 have no right in the properties. Pursuant to the oral partition which was contested by respondents 3 and 4 consented and in the interregnum, the 5th respondent has sold 51 cents to the 6th respondent under a registered sale deed on 12.08.2013. The 5th respondent and 2nd petitioner are in possession of the respective items, 6th respondent and the 2nd petitioner also have prescribed title by adverse possession and ouster as well. The respondents 3 and 4 are fully conscious that they will not succeed in the Civil Court and therefore, they have chosen to go before the first respondent/Registering Authorities for exercise of the powers vested in them. The third respondent is said to have given a petition dated 01.02.2022 to the first respondent/District Registrar complaining that respondents 3 and 4 also have a share in the aforesaid properties and questioning the sale deed dated 12.08.2013 between respondents 5 and 6 and the settlement deed dated 04.06.2018 executed by the first petitioner to the second petitioner, they had prayed for cancellation of the documents. Thereafter, the first respondent has passed an order in Na.Ka.No.688/Aa1/2021, dated 11.04.2022 holding that the transfers are invalid and prohibited registration of any document based on the



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aforesaid documents and granted permission to effect a partition. The first respondent, or any registering authority, for that matter, is not competent to decide about the validity of a transaction. There is no provision in the Registration Act empowering registering authorities to decide title. They are not competent to decide title. In this case, the first respondent has referred Circulars in No.41530/U1/2017, dated 20.10.2017 and 08.11.2017 issued by the Inspector General of Registration and not based upon the decision in **Satya Pal Anand v. State of Madhya Pradesh and Ors.**, reported in **2016 (10) SCC 767**, where the Hon'ble Supreme Court has categorically held that the registering authorities have no jurisdiction to cancel any document. In **N. Ramayee v. The Sub-Registrar, Vadapady**, reported in **2020(5) LW 385 (DB) : 2020(8) MLJ 305** Division Bench of this Court has held that registering authorities have no jurisdiction to either cancel a registered instrument or decide title and that circulars of the Inspector General of Registration can have no force. The Circulars specifically bar registering authorities from deciding upon title. The order dated 11.04.2022 states that the petitioners have approached the Deputy Inspector General of



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Police. Therefore, the petitioners have come forward with the present writ petition under Article 226 of the Constitution of India.

4. The learned counsel appearing for the petitioner submitted that, originally the property was owned by the petitioners' father, namely, Dhandapani Chettiar and he had four sons, the petitioner herein, 5th respondent and elder brothers by name Rajendran and Jayapaul. The said Rajendran passed away without any legal heirs, and three legal heirs of Mr.Subramanian, namely, one daughter, the fourth respondent herein, and his mother, the third respondent herein. Since the property devolved upon the legal heirs, the petitioner, and respondents 4 and 5 have filed a partition suit in O.S.No.5 of 1996 on the file of Sub Court, Cuddalore against the third respondent and other legal heirs. However, the said suit was dismissed for default, since there was an oral partition on 12.09.2000. Thereafter, the petitioner settled the property in favour of the second petitioner, vide settlement deed dated 04.06.2018 in Document No.1992 of 2018 and further the fifth respondent, had executed the sale deed in favour of the sixth respondent, vide Document Nos.128/2013 and 3289 of 2013 on the file of the second respondent.



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Challenging the settlement deed as well as sale deed executed between respondents 5 and 6, respondents 3 and 4, made a complaint before the District Registrar to cancel the settlement deed and sale deed, pursuant to which, the present impugned order has been passed by the respondents. Challenging the same, the present writ petition is filed.

5. Learned counsel appearing for the petitioner submitted that the Registering Authority has no power to cancel a document and to decide on the question of title which is on the basis of oral partition entered into between the family members and the remedy for the aggrieved party only lies before the Civil Court.

6. Reliance has been placed on the decision in the case of **R.Ganesan v. The Inspector General of Registration and Ors** in W.P.(MD).No.4729 of 2013, dated 08.09.2022, wherein it has been held as follows:-

5. As per Rule 55 of the Registration Rules, 1908, the Registering Officer has no power to enquire into the validity of a document brought to him for registration or



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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.

6. In the present case, the document has already been registered on 05.02.2010. Thereafter, the fourth respondent has approached the second respondent for cancellation of the said document. The second respondent invoking his power under Circular No.67, dated 03.11.2011 has conducted an enquiry gone and into the disputed title between the petitioner and the fourth respondent and has arrived at a finding that the writ petitioner has no title over the disputed properties. Even as per Circular No.67, dated 03.11.2011, the authorities under the Registration Act, cannot have any power to adjudicate upon the title of the parties. Even assuming any power has been granted under any Circular that cannot supersede the statutory Rule, namely, Rules 55 of the Registration Rules, 1908."

7. It is the case of the petitioner that there was some oral partition between the family members, which was the subject matter of the suit in O.S.No. 5 of 1996 before the Sub Court, Cuddalore, which was dismissed for default. However, based on the oral partition, the



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settlement deed and sale deed is alleged to have been entered into in and by which the 5th respondent has sold his share in the property to the 6th respondent. However, the fact remains that there is no demarcation of the property, which is the subject matter of partition and without there being any demarcation, the property that has fallen to the share of the 5th respondent cannot be established. Against the said sale and settlement, the petitioners have lodged a complaint before the respondents, which has led to the cancellation of the documents, which has resulted in the impugned order.

8. Though the petitioner claims that the 1st respondent has no authority to cancel the sale deed and settlement deed and the remedy open to respondents 3 and 4 is to only approach the civil court to establish their right and title and their share over the property, however, the fact remains that as against the order passed by the 1st respondent there is an appellate remedy available before the Deputy Inspector General of Registration and without exhausting the said remedy, the petitioners have approached this Court and, therefore, the present writ petition has to be dismissed by relegating the petitioners to exhaust the



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appellate remedy.

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9. Accordingly, the writ petition is dismissed, with liberty to the petitioners to work out their remedy before the Competent Forum/Authority seeking appropriate relief in the manner known to law. No costs. Consequently, connected Miscellaneous Petitions are closed.

16.09.2022

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Index : Yes/No

Speaking Order : Yes/No

Neutral citation : Yes/No

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