



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
24.03.2022	12.04.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.26354 OF 2021

AND

W.M.P. NOS.27828 & 29582 OF 2021

Smt. Akila Vijayakumar

.. Petitioner

- Vs -

1. Inspector General of Registration
100, Santhome High Road
Pattinapakkam
Chennai 600 018.

2. Deputy Inspector General of Registration
Electronic Complex
SIDCO Industrial Estate
Guindy
Chennai 600 032.

3. District Registrar (Admin) (AIG Cadre)
Chennai Central, Royapettah
Chennai 600 014.

4. Joint-I Sub Registrar
Chennai Central
Royapettah
Chennai 600 014.

5. Ms. Saraswathy Bhuvarahan

6. Ms. Uma Ravishankar

7. Ms. T. SriLatha

8. Ms. Sri Sudha Gnanaprakasam

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records of the impugned order dated 29.07.2019 bearing No.641/2019 passed by the 2nd respondent and the consequent remarks made in the encumbrance certificate of the property situated in Old No.6A, New No.78, Sriman Srinivasa Road, Alwarpet, Chennai 600 018, comprised in R.S.



No.1577/7 and 1579/1 (part) measuring about 2 grounds 2166 sq.ft. and quash the same and direct the respondents 1 to 4 to remove the remarks made in the encumbrance certificate of the said property in pursuance to the impugned order dated 29.07.2019 bearing No.641/21/2019 passed by the 2nd respondent.

For Petitioner : Mr. N.L.Rajah, SC, for
M/s.Vidya Chetan

For Respondents: Mr. R.Viduthalai, SC, for
M/s. A.V.Bharathi for RR-7 & 8
Mr. R.Viduthalai, SC, for
M/s. N.Doraikannan for RR-5 & 6

ORDER

The present petition has been filed to quash the impugned order and the consequent remarks made in the encumbrance certificate in respect of the property belonging to the petitioner's father, which has been bequeathed to the petitioner by way of an unregistered Will, which has been submitted for probate.

2. It is the case of the petitioner that the 5th respondent is her mother and respondents 6 to 8 are her sisters. The property situated at Old No.6A, New No.78, Sriraman Srinivasa Road, Alwarpet, Chennai comprised in R.S. No.1577/7 and 1579/1 (Part) measuring about 2 grounds 2166 sq.ft., belong to her father, Late Bhuvarahan, who breathed his last on 23.2.2014. It is the averment of the petitioner that after the demise of her father on 23.2.14, the unregistered Will, written by her father, dated 27.11.2007 was handed over to her by her mother, viz., the 5th respondent, in and by which her father had bequeathed the aforesaid property to the petitioner.

3. It is the further averment of the petitioner that due to influence exerted by respondents 6 to 8 on the 5th respondent, the said respondents claimed ownership on the aforesaid property on the basis of a Settlement Deed, dated 10.01.2008, alleged to have been executed by her father, which has been registered as Document No.17 of 2008 on the file of the District Registrar, Chennai Central. Coming to know of the above, the petitioner had made an application for encumbrance certificate, which revealed the execution and registration of the said Settlement Deed on 10.1.2008. It is the further averment of the petitioner that her father had not informed her about the execution of the said settlement deed.

4. It is the further case of the petitioner that the said settlement deed is a sham and nominal document, as the same is



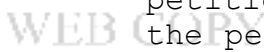
contrary to the Will, which has been executed by her father, prior to the execution of the Settlement Deed. Aggrieved by the execution of the fraudulent settlement deed dated 10.01.2008, the petitioner had filed a suit in O.S. No.4120 of 2014 before the City Civil Court, Chennai, seeking a declaration that the said settlement deed dated 10.1.2008 is null and void and to permanently restrain the respondents 6 to 8 from interfering with or alienating the subject property and the said suit is pending.

5. It is the further averment of the petitioner that respondents 5 to 8 have preferred a suit in O.S. No.5455 of 2014 seeking permanent injunction restraining the petitioner from interfering with their alleged peaceful possession and enjoyment of the property and in the said suit, they have preferred I.A. No.14712/2014 seeking interim injunction, in which an order of status quo was granted till 29.10.2014, which has not been extended thereafter.

6. It is the further averment of the petitioner that pending the suits, the petitioner executed a settlement deed dated 29.12.2014 in respect of the very same property in favour of her daughter and son, which was registered as document No.691 of 2015 on the file of the 4th respondent. Obtaining knowledge about the execution and registration of the settlement deed, respondents 5 to 8 preferred suit in O.S. No.5047 of 2015 on the file of the City Civil Court, Chennai, seeking a declaration that the Settlement Deed dated 29.12.2014 is null and void and also a permanent injunction restraining the petitioner as well as the settlees from registering any document with respect to the said property. All the suits preferred by the petitioner and the respondents are pending.

7. It is further averred by the petitioner that O.P. No.882 of 2017 was filed before this Court for grant of Letters of Administration with respect to the Will dated 27.11.2007, which stood converted into a Testamentary Suit and numbered as T.O.S. No.1 of 2018, which is also pending.

8. It is further averred by the petitioner that the respondents 6 to 8, through the 5th respondent, acting with malice, approached the 4th respondent seeking to cancel the settlement deed dated 29.12.14 vide communication dated 21.8.2015, which has been rightly rejected by the 4th respondent citing pendency of the suits and that orders on the same could be obtained only before the civil court. However, challenging the order of the 4th respondent, after a huge delay, the 5th respondent preferred a petition dated 20.12.2018 to the 3rd respondent seeking cancellation of the allegedly fraudulent settlement deed dated 29.12.14 on false and misleading



9. It is the further averment of the petitioner that on the petition dated 20.12.2018, the 3rd respondent issued notice to the petitioner directing the appearance of respondents 5 to 8 as well as the petitioner for enquiry on 21.01.09. The petitioner appeared before the 3rd respondent and sought for time citing pendency of the civil suits and also pointing out the false representations made by the 5th respondent and after hearing the parties and considering the materials, the 3rd respondent rejected the petition of the 5th respondent, by order dated 23.01.19 holding that the issue is sub judice and the remedy to the parties lies before the civil courts.

11. It is further averred by the petitioner that pursuant to the submission of reply and after hearing the petitioner and respondents 5 to 8, on the basis of the unsubstantiated misrepresentations made by the 5th respondent, the impugned orders came to be passed inspite of the fact that four suits were pending with respect to the title of the property. It is the further averment of the petitioner that while the 2nd respondent cancelled the settlement deed dated 29.12.2014 executed and registered by the petitioner, however, the 2nd respondent held that the power of cancellation of a registered document is only with the civil courts and directed the 5th respondent to approach the civil court, which clearly reveals non-application of mind on the part of the 2nd respondent. It is the further averment of the petitioner that not only the order of the 2nd respondent is self-contradictory and ultra vires the Registration Act, but also in violation of the decisions of the Hon'ble Supreme Court and this Court and the impugned order also reveals clear abuse of power and contempt of court.



12. It is the further averment of the petitioner that in pursuance to the impugned, certain remarks against the settlement deed dated 29.12.2014 have been made by the 4th respondent in the encumbrance certificate stating that the subject property had been transferred without any right over the same. It is the averment of the petitioner that by the above remarks, the 2nd respondent had overshoot his jurisdiction by deciding issues relating to the title and caused publication of the same in the encumbrance certificate, wherein it has also been stated that on the basis of the said settlement deed no further documents can be registered, but with regard to the settlement deed dated 10.1.08, alleged to have been registered by her late father in favour of respondents 5 to 8, no such bar has been imposed, which act is nothing but cancelling the settlement deed of the petitioner, while upholding the validity of the settlement deed dated 10.1.2008, though in relation to the title, suits are pending before the civil court.

13. It is the further averment of the petitioner that with regard to the above, a protest petition dated 24.9.21 was filed seeking deletion of the remarks made in the encumbrance certificate and in the absence of consideration of the said representation, the petitioner filed objections dated 30.9.21 before the 4th respondent requesting him not to register any documents in relation to the disputed property, pending adjudication of the protest petition filed before the 1st respondent. To the same, the 4th respondent has sent a reply stating that insofar as Protest Petition No.3/2021 dated 1.10.2021 is concerned, documents presented as per the provisions of the Registration Act and the Rules framed thereunder would be entertained and the petitioner was directed to approach the civil court for any relief. Aggrieved by the said order and the inaction of the 1st respondent in passing any orders on the protest petition, the petitioner has come before this Court by way of the present petition.

14. Learned senior counsel appearing for the petitioner, reiterating the facts, highlighted the provision of law by drawing the attention of this Court to decision of the Hon'ble Apex Court in Satya Pal Anand - Vs - State of M.P. (2016 (10) SCC 767) and submitted that the act of the 2nd respondent in adjudicating the title to the property by cancelling the settlement deed executed and registered by the petitioner, in contravention of Sections 17, 34 and 35 of the Registration Act, but upholding the validity of the settlement deed alleged to have been executed and registered by her father in favour of respondents 5 to 8, is in gross violation of the ratio laid down in the aforesaid decision.



15. It is the submission of the learned senior counsel that there is a categorical finding in Satya Pal's case (supra) that a document, once registered, not only the registering authority becomes functus officio and cannot deal with the said document, including its cancellation, but even the higher authority in the Registration Department, is not clothed with any power to cancel the said document.

16. It is the further submission of the learned senior counsel that though the 2nd respondent has spoken about the powers of the registering authority with respect to cancellation of a registered deed, while on the one hand had cancelled the registered settlement deed executed by the petitioner but on the other hand, had directed the petitioner to approach the civil court in respect of the registered settlement deed alleged to have been executed and registered by her father in favour of respondents 5 to 8, which shows clear non-application of mind on the part of the 2nd respondent, as both the findings are self-contradictory.

17. It is the further submission of the learned senior counsel for the petitioner that when it is the admitted case of either side that the suits relating to the validity and legality of the settlement deeds as also the genuineness of the unregistered Will, alleged to have been executed by her father in her favour with regard to bequeathing the property in favour of the petitioner are put in issue before the civil court and as on date are pending with no interim orders having been granted in favour of either side, the act of the 2nd respondent in cancelling the settlement deed executed and registered by the petitioner with further remarks being made in the encumbrance certificate is nothing but an act on the part of the 2nd respondent in usurping the powers of the civil court, which is per se, unsustainable.

18. It is the further submission of the learned senior counsel that inspite of the fact that many false representations have been made by respondents 5 to 8 in the representation before the 2nd respondent, which has been pointed out by the petitioner in her written reply, yet the 2nd respondent, without properly appreciating the materials had held that no suit is pending and also stating that the petitioner had not objected to the execution of the settlement deed executed and registered by her father in favour of respondents 5 to 8 and had even admitted the execution of the said documents, has come to an erroneous conclusion as to the legality and validity of the two settlement deeds and has rendered certain findings, which are not only unsustainable, but also illegal and ex facie arbitrary, which deserves interference at the hands of this Court.



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19. Learned senior counsel for the petitioner placed reliance on the following decisions :-

- i) Satya Pal Anand - Vs - State of M.P. & Ors. (2016 (10) SCC 767);
- ii) Commissioner Jalandhar Division & Ors. - Vs - Mohan Krishnan Abrol & Anr. (2004 (7) SCC 505);
- iii) Dharmalingam A - Vs - Inspector General of Registration & Ors. (WP (MD) No.9250/2019 - Dated 6.7.2021);
- iv) N. Venkatesh - Vs - The Inspector General of Registration (W.P. No.12754/2020 - Dated 16.9.20);
- v) H.Dadabai & Ors. - Vs - The Inspector General of Registration & Ors. (2021 SCC OnLine Mad 7799);
- vi) S.R.M. Packiri Rajan - Vs - The Inspector General of Registration & Ors. (W.P. (MD) No.10177 of 2021 - Dated 17.6.2021); and
- vii) C.Rangaraj & Anr. - Vs - The Inspector General of Registration & Ors. (2019 SCC OnLine Mad 8525).

20. Per contra, a detailed and exhaustive counter has been filed on behalf of respondents 5 to 8 and learned senior counsel appearing for respondents 5 to 8, based on the said counter, submitted that the settlement deed executed by Late Buvarahan in favour of respondents 5 to 8 has been registered as Document No.17 of 2008 on 10.01.2008. It is the further submission of the learned senior counsel that the petitioner has no title over the said property, as the Will, on which she claims title, is an unregistered Will, which is merely submitted for probate, but not yet probated and, therefore, Section 213 of the Indian Succession Act would come into play. It is the further submission of the learned senior counsel that Section 213 of the Indian Succession Act, in unequivocal terms, mandates that no right as executor or legatee is established unless a court of competent jurisdiction has granted probate of a Will. That being the case, the claim of the petitioner that the title to the property is in dispute cannot be sustained for the simple reason that the registered Settlement Deed dated 10.01.2008 stares on the face of the petitioner and that the settlement deed had put the title on respondents 5 to 8, which is reflected in the encumbrance certificate.

21. It is the further submission of the learned senior counsel that the Will dated 27.11.07 is a forged and fabricated document, which has been submitted for probate only in the year 2017 and there is no explanation or reason for the delay in submission of the Will for probate long after the death of the said Buvarahan in the year 2014. It is the further submission of the learned senior counsel that the petitioner not having any title to the property, mere production of the alleged Will without there being a probate granted by the Court of competent



22. It is the further submission of the learned senior counsel that the suit filed by the petitioner in O.S. No.4120/2014 in which an ex-parte order of injunction was granted stood vacated on 25.9.14 in I.A. No.11378 of 2014. That being the position, there being no interim order in favour of the petitioner, the petitioner gets no right to execute any settlement deed, more so, when a suit in O.S. No.5455/14 has been filed by respondents 5 to 8 claiming permanent injunction in which an order of status quo was also granted.

24. It is the further submission of the learned senior counsel that the impugned order passed by the 2nd respondent nowhere cancels the deed of settlement registered by the petitioner, but merely makes an endorsement as to the invalidity of the settlement deed and pointing out that no transaction can be entered into on the basis of the said settlement deed. It is the submission of the learned senior counsel that the 2nd respondent has categorically pointed out that the registering authority has no power to cancel a document, which has been registered and, therefore, had relegated the parties to go before the civil court for necessary relief. The act of the 2nd respondent in passing the said order is consonance with Sections 68 and 69 of the Registration Act and also in terms of Section 17 of the Registration Act.

<https://hcservices.ecourts.gov.in/hcservices/>



26. It is the further submission of the learned senior counsel that the act of the 2nd respondent in exercising his powers u/s 68 and 69 of the Registration Act and further directing action against the Sub Registrar, who had registered the settlement deed without following the procedures prescribed under the Registration Act, as the said authority had failed to verify the previous documents regarding the subject property before registering the settlement deed Doc. No.691 of 2015.

27. It is the further submission of the learned senior counsel that the endorsements in the encumbrance certificate were made pursuant to the orders of this Court in W.P. (MD) No.10177/2021 and also in the light of the subsequent circular of the Inspector General of Registration in Letter No.20217/UI/2021 dated 9.7.2021. That being the case, the 2nd respondent has not in any way violated the legal provisions and also the orders of this court.

28. It is the further submission of the learned senior counsel that the Settlement Deed in Doc. No.691 of 2015 has been executed by the petitioner in favour of her daughter and son, without having any valid title over the property and only on the basis of an unregistered Will, entering into a settlement deed is not only illegal but the ramifications that will follow post the settlement, in case of further encumbrance would create problems and, therefore, rightly, the remarks have been made in the encumbrance certificate.

29. It is therefore the submission of the learned senior counsel that the act of the 2nd respondent in passing the orders impugned herein are all based on materials and proper appreciation of law and in no way illegal and arbitrary and, therefore, the present petition deserves to be dismissed.

30. Counter affidavit has been filed on behalf of respondents 1 to 4 submitting that the 2nd respondent, in line with the decision of this Court, as well as the decision in Satya Pal's case (supra) and also following the circular issued by the Inspector General of Registration has passed the order to make remarks in the encumbrance certificate, while relegating the petitioner and the respondents 5 to 8 to agitate their rights to title and the property in the pending suit. Therefore, no interference is called for with the order passed by the 2nd respondent, which is impugned herein.

31. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.



32. Before advertng to the issue before this Court, though respondents 5 to 8 raised a ground that there are very many material suppressions and fabrications committed by the petitioner, which have not been brought to the notice of the Court relating to the settlement deed and the unregistered Will, which clearly demonstrates that the petitioner has approached this Court with unclean hands, equally the petitioner has also averred that respondents 5 to 8 have placed false facts and uncorroborated materials in support of their case. However, this Court is not inclined to go into the said issues, as those issues are to be tried and tested at the time of trial and not before this Court under its extra-ordinary jurisdiction under Article 226 of the Constitution. Therefore, this Court is not advertng to the contentions raised on behalf of the parties.

33. The facts surrounding the filing of the suits, the interlocutory applications, the criminal and counter complaints, the criminal complaint culminating in the quash petition and the action taken on the same and orders passed are borne out by record, with which the parties cannot have any dispute. It is to be pointed out that the petitioner has not questioned the execution of the settlement deed by the settlor in favour of respondents 5 to 8, but the settlement deed is assailed on the ground that the same has been executed and registered by the settlor due to coercion and pressure and not at the free will and volition of the settlor, viz., the father of the petitioner, as even prior to the said settlement deed, the settlor had bequeathed the subject property in favour of the petitioner through an unregistered Will, which has been submitted for probate.

34. The petitioner claims the property on the basis of an unregistered Will alleged to have been executed by her father. It is borne out by record that the said unregistered Will has been executed on 27.11.2007, while the settlement deed in favour of respondents 5 to 8 has been executed and registered on 10.1.2008. The settlor had passed away on 23.2.2014. It is to be pointed out that the Letters of Administration had been sought for from this Court by filing O.P. No.882 of 2017, which has since been converted to T.O.S. No.1 of 2018. However, it is admitted by the petitioner that no order has been passed in the said suit till date. Therefore, it is clear that the subject property, to which the petitioner claims title by virtue of the unregistered Will is pending adjudication before this Court.

35. Equally, it is also to be noted that the Settlement Deed dated 10.01.2008, which has been executed by the settlor in favour of respondents 5 to 8 is a registered document, the authenticity of which has been put to test at the behest of the petitioner, but till date, the petitioner has not obtained any



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favourable orders in support of her case in the suit, though briefly the petitioner had enjoyed the order of interim injunction, which has since been vacated. Equally so the status quo order, which has been obtained by respondents 5 to 8 in the suit filed by them, seems not to be subsisting as on the present date. Furthermore, the suits, which have been instituted by one or the other party is still pending without any favourable orders to either side. However, in I.A. No.15241/2015 in O.S. No.4120/2014, filed by the petitioner for interim injunction, a detailed

36. Be that as it may. The petitioner and the respondents 5 to 8, who are blood related, are at loggerheads over the property, which has ultimately landed before the 2nd respondent in view of the order passed by the 3rd respondent. In the complaint filed by the 5th respondent before the 3rd respondent with regard to cancellation of the settlement deed executed by the petitioner, viz., Doc. No.691/2015, the 3rd respondent had directed the 5th respondent to go before the civil court to adjudicate her rights with regard to cancellation of a registered document, as it is only the civil court which has the power to cancel a registered document. Against the said order passed by the 3rd respondent, the appeal has been lodged before the 2nd respondent. While the petitioner contends that the 2nd respondent has exceeded his jurisdiction and power vested in him by deciding the title to the property, however, the official respondents and the private respondents contend otherwise and submit that what the 2nd respondent has done is only passing a direction to make a remark in the encumbrance certificate about the authenticity and genuineness of the settlement deed executed by the petitioner and preventing any person from acting on the said document so that further encumbrances are not created and in other aspects, the parties have been advised to go before the civil court and agitate their rights.

37. As already pointed out above, the injunction sought for by the petitioner with regard to the settlement deed, viz., Doc. No.17/08, executed and registered by the settlor in favour of respondents 5 to 8 is still in force and no interim orders have been passed in the suit to the detriment of respondents 5 to 8.

38. In this backdrop, it becomes necessary for this Court to turn to the impugned order to find out whether the said order is in compliance of the provisions of the Registration Act and also the ratio laid down by the Hon'ble Supreme Court in Satya Pal's case (supra).

39. A perusal of the impugned order reveals that the contentions and counter contentions and the materials on which reliance has been placed on by either side has been clearly



detailed by the 2nd respondent in its impugned order. The contentions relating to the status of the various suits and the stage of the suits and the order passed, as spoken to by the parties, have been tabulated in the order. To put it in a nutshell, the initial part of the order merely speaks about the facts and status of the suits, as narrated by the parties and the said facts, could in no way, be termed to be a conclusion of the 2nd respondent. Further, it to be pointed out that the petitioner and respondents 5 to 8 have thrown brickbats at each other in their contentions, with which this Court is not concerned, as the same cannot be deliberated by this Court under Article 226 of the Constitution, as they pertain to disputed questions of facts.

40. Turning to the analysis on the basis on which findings have been arrived at by the 2nd respondent, it reveals that the 2nd respondent has held that the registered settlement deed Doc. No.17/2008 dated 10.01.2008 has been executed and registered by the settlor in favour of respondents 5 to 8. It has been further found that the unregistered Will dated 27.11.07 is yet to be probated in accordance with law and, therefore, the said Will cannot be said to be authentic or genuine and that the authenticity and genuineness of the said Will could be decided only by the Court.

41. Recording the above, the 2nd respondent has further held that the registering authority, in relation to a property, can register the same only after scrutinizing the encumbrance certificate, parent document, revenue records, patta, etc. However, the said procedure has not been followed by the registering authority while entertaining and registering Doc. No.691/2015 dated 18.6.2015, which is the settlement deed executed by the petitioner in favour of her daughter and son with regard to the property, which is the subject matter of the unregistered Will as also the settlement deed, viz., Doc. No.17/08.

42. The 2nd respondent has further held that I.A. No.15241/2015 in O.S. No.4120/2014, filed by the petitioner, seeking injunction, has been dismissed and the appeal in CMA No.141/2015 has also been dismissed by recording the endorsement of the petitioner herein. From the above findings, which are borne out by record, the 2nd respondent has come to the categorical conclusion that on the basis of the unregistered Will dated 27.11.07, the settlement deed dated 18.6.2015 has been executed and registered by the petitioner in favour of her daughter and son. The 2nd respondent, in the above scenario, has rendered a finding that the registering authority has not taken into consideration the encumbrance certificate, parent document, revenue records, patta, etc., before registering the settlement



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deed as envisaged under the Registration Act. In the above backdrop, the 2nd respondent has come to the conclusion that the petitioner not having any title as on date over the said property, has executed the settlement deed in favour of her daughter and son. The 2nd respondent has recorded yet another finding that the petitioner has not filed any written objection with regard to the settlement deed, viz., Doc. No.17/2008 executed by the settlor in favour of respondents 5 to 8. A further finding has been recorded that the suit instituted by the petitioner relate to the declaring the authenticity and genuineness of the unregistered Will as true and not about the title to the property and further the suit filed by the petitioner with regard to her claim over the property not being in her favour, the 2nd respondent has rendered a finding that the petitioner, as on 18.6.2015, did not have any right to execute and register Doc. No.691/2015. Coming to the said conclusion, the 2nd respondent has directed the registering authority to make necessary entries/remarks in the encumbrance certificate. Further, direction was also issued u/s 83 of the Registration Act to the Sub-Registrar to file necessary complaint before the concerned Magistrate for the purpose of directing the law enforcing agency to investigate the matter. The 2nd respondent has also held that in view of the registered settlement deed, viz., Doc. No.17/2008, against which no order has been passed in the suit, respondents 5 to 8 were permitted to enter into transaction relating to the said property.

43. A careful perusal of the aforesaid impugned order passed by the 2nd respondent reveals that nowhere the 2nd respondent has given a finding that the title to the property vests with respondents 5 to 8 and that the petitioner is not having any title. The 2nd respondent has only arrived at a finding that based on the settlement deed, viz., Doc. No.17/08 and in the absence of any judicial order absolving the right, respondents 5 to 8 derive right to deal with the property. The 2nd respondent has also not rendered any finding relating to the title to the property which is purely within the domain of the civil court. All that the 2nd respondent has dealt with is only to the limited extent of appreciating the materials placed before him to come to the conclusion, on the basis of the provisions of the Registration Act, that as on date, it is only respondents 5 to 8, who have a deed in their favour which stands registered by the settlor appearing before the registering authority, based on which they can deal with the property. By no means, has the 2nd respondent held that respondents 5 to 8 have the title to the property, thereby, foreclosing the trial and making the suits otiose.

44. Further, it should also not be lost sight of that the alleged unregistered Will is said to have been executed on



27.11.2007, while the Settlement Deed, viz., Doc. No.17/2008 has been registered on 10.1.2008. It is the admitted case of the parties that Letters of Administration was sought for on the unregistered Will, by submitting it to probate, in the year 2017, by filing O.P. No.882/17. It is to be pointed out that only on the Will being probated, the petitioner gets title to the property, which is alleged to have been bequeathed to her by her father. But much before the unregistered Will being submitted for probate, rather, much before filing of the petition seeking Letters of Administration, vide, O.P. No.882/17, the petitioner has executed the Settlement Deed on 29.12.2014, which was subsequently registered on 18.06.2015 as Document No.691 of 2015. Therefore, on the date of execution and registration of the Settlement Deed by the petitioner, the petitioner did not have any title to the property. In such a scenario, the finding recorded by the 2nd respondent that the registering authority ought to have scrutinized all the materials like parent document, patta, revenue records, etc., before registering the said settlement deed cannot be found fault with, as the provisions of the Registration Act contemplate that the registering authority has to satisfy himself by perusing the relevant documents relating to title before registering the document.

45. It would not be out of context to point out that the petitioner has submitted a letter dated 18.06.2015 to the registering authority stating that unregistered Will has been submitted for probate and that she has registered a settlement deed dated 29.12.2014 in favour of her daughter and son and has further stated that once probate is granted by the Court, a copy of the said order would be submitted to the registering authority. Even from the above letter of the petitioner, it is evident that as on date, probate has not been granted in favour of the petitioner and title to the property has not passed on to the petitioner.

46. In the case on hand, the 2nd respondent has arrived at a subjective satisfaction that the provisions of the Registration Act has not been satisfied by the registering authority by making proper enquiry and that being the case, exercising his appellate powers, the 2nd respondent has directed the Sub Registrar to make appropriate entries in the revenue records relating to encumbrance so that further encumbrances are not created. The said act of the 2nd respondent could in no way be said to be beyond his jurisdiction or is illegal and unsustainable.

47. However, this Court has pointed out the above only to arrive at a finding as to the sustainability of the order passed by the 2nd respondent and this Court has not ventured into



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deciding the title of either the petitioner or respondents 5 to 8 to the subject property. The proper course for the parties is to adjudicate their right to the property, including claiming title, by establishing their case before the civil court in the manner known to law. Equally, the direction of the 2nd respondent relating to the right of respondents 5 to 8 to deal with the property on the basis of the settlement deed, viz., Doc. No.17/08, executed and registered by the settlor on 10.01.08 cannot be found fault with, as, as on the date when the order was passed, there was no order of injunction or other prohibitory direction from any judicial forum with regard to the said settlement deed. In fact, the injunction sought for by the petitioner in I.A. No.15241/15 in O.S. No.2014 had been dismissed and the appeal filed against the said order was also withdrawn at the instance of the petitioner herein. That being the case, there being no injunction as against respondents 5 to 8 or any other authority from dealing with the property, the 2nd respondent was justified in passing the said direction.

48. Insofar as the criminal case, which has been directed to be lodged by the Sub Registrar in exercise of powers conferred u/s 83 of the Registration Act by the 2nd respondent, it is not to be lost sight of that all the suits relating to very many reliefs claimed by the petitioner and respondents 5 to 8 are before the court pending adjudication. Also the authenticity and genuineness of the unregistered Will is also under consideration of this Court in O.P. No.882/17 which has been subsequently renumbered as T.O.S. No.1/2018. Further, it is to be borne in mind that the parties are blood related and any criminal action at this stage would be nothing but pouring oil in the already ignited fire, which will only tend to aggravate and multiply the issue and create more friction between the parties rather than trying to douse the fire. Therefore, in the light of the familial bond and to give a quiet climate in which the rights of the parties can be adjudicated peacefully, this Court feels that it would be in the interest of justice, if a direction is issued to the law enforcing agency not to proceed with the filing of the charge sheet till the suits filed by the petitioner and respondents 5 to 8 attain finality, by invoking its extraordinary and inherent jurisdiction under Article 226 of the Constitution of India.

49. For the reasons aforesaid, this Court is of the considered view that there is no illegality or perversity in the order passed by the 2nd respondent and, therefore, the said order does not call for any interference. Accordingly, this writ petition fails and the same is dismissed. However, in the interest of justice, the law enforcing agency is directed not to proceed with the filing of the charge sheet till the suits filed by the petitioner and respondents 5 to 8 attain finality.



Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs. Registry is directed to mark a copy of this order to the Inspector of Police, Team-27, Forgery Prevention Wing, CCB-I, Vepery, Chennai, for necessary compliance.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

GLN

To

1. Inspector General of Registration
100, Santhome High Road
Pattinapakkam
Chennai 600 018.
2. Deputy Inspector General of Registration
Electronic Complex
SIDCO Industrial Estate
Guindy
Chennai 600 032.
3. District Registrar (Admin) (AIG Cadre)
Chennai Central, Royapettah
Chennai 600 014.
4. Joint-I Sub Registrar
Chennai Central
Royapettah
Chennai 600 014.
5. The Inspector of Police,
Team-27, Forgery Prevention Wing,
CCB-I, Vepary, Chennai.

+5cc to Mr.T.Vidya Chetan, Advocate, S.R.No.25028
+2cc to Mr.N.Dorai Kannan, Advocate, S.R.No.25123
+1cc to Mr.A.V.Bharathi, Advocate, S.R.No.25601
+1cc to the Government Pleader, S.R.No.25924

W.P. NO.26354 OF 2021

MT(CO)
SB(26/04/2022)