



W.A.No.2647 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.2647 of 2022

K.P.Pandiyan

.. Appellant

Vs

1 The Joint-I Sub-Registrar
Kallakurichi, Villupuram District.

2 The District Registrar
Kallakurichi.

Shanbagam (Deceased)
Viruthambal (Deceased)

- 3 Kumudha
- 4 Sampath Kumar
- 5 Vijayasarithi
- 6 Meenatchi
- 7 Bhuvaneswari
- 8 Abirami
- 9 Shakthi
- 10 Janani
- 11 Mullaikodi
- 12 Murali
- 13 Rajeshwari
- 14 Gurunathan



W.A.No.2647 of 2022

15 Karunanithi
16 Boopathy
17 Sivagamisundari
18 Somasundaram
19 Thilagavathi
20 Murugan
21 Shankar

.. Respondents.

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated dated 5.8.2021 made in W.P.No.21037 of 2014.

For the Appellant : Mr.T.V.Ramanujun
Senior Counsel
for Mr.B.Arvind Srevatsa

For the Respondents : Mr.P.Muthukumar
State Government Pleader
for respondents 1 and 2

JUDGMENT

(Delivered by the Hon'ble Acting Chief Justice)

Mr.T.V.Ramanujun, learned Senior Counsel appearing for the appellant, after advancing emphatic arguments assailing the findings and conclusion arrived at by the learned Single Judge in the order dated 5.8.2021 passed in W.P.No.21037 of 2014, submitted that even though there is an appeal remedy available to the appellant under Section 72 of the Registration Act, 1906, the appellant is afraid to



W.A.No.2647 of 2022

pursue the appellate remedy for the reason that a concrete finding has been given by the learned Single Judge in paragraph (3) of the order against the appellant as under:

"3. It is seen from the impugned order that the vendors filed suit in OS.No.111 of 2008 for partition as against their brother one, Ganesan. On the strength of the suit averments, they executed sale deed in favour of the petitioner and the same was presented for registration. Thereafter, the said suit was withdrawn as not pressed by the petitioner's vendors. Therefore, the first respondent rightly refused to register the document for the reason that the vendors failed to prove their title over the property by producing patta and relevant documents. Therefore, this Court finds no merits in the writ petition."

2. Learned Senior Counsel for the appellant further submitted that if this court makes it clear that the appellate authority shall consider the appeal on merits without being influenced by any of the observations made in the order passed by the learned Single Judge with regard to the title and ownership of the land, no prejudice would be caused to anyone.



W.A.No.2647 of 2022

3. We find some merit in the aforesaid submission made by learned Senior Counsel for the appellant, as the appellant is yet to file an appeal under Section 72 of the Act as against the order dated 3.7.2020 passed by the first respondent and any finding rendered by this court on the merits of the matter will have a bearing while considering the appeal.

4. In such view of the matter, we dispose of the appeal by granting liberty to the appellant to file an appeal before the District Registrar under Section 72 of the Act within three weeks from the date of receipt of a copy of this order. It is made clear that the appellate authority shall consider the appeal and pass appropriate order on merits and in accordance with law, without being influenced by any of the observations made in the order passed by the learned Single Judge. There will be no order as to costs. Consequently, C.M.P.No.21230 of 2022 is closed.

(T.R., ACJ.) (D.B.C., J.)
08.12.2022

Index : No
sasi



W.A.No.2647 of 2022

To:

WEB COPY

- 1 The Joint-I Sub-Registrar
Kallakurichi, Villupuram District.
- 2 The District Registrar
Kallakurichi.



WEB COPY



W.A.No.2647 of 2022

T.RAJA, ACJ.
AND
D.BHARATHA CHAKRAVARTHY, J.

(sasi)

W.A.No.2647 of 2022

08.12.2022