



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2022

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) .No.4911 of 2022

and

W.M.P. (MD) .Nos.4049 and 4050 of 2022

1.S.R.Jeyaramdas

2.J.Shofiaramvictoria

3.A.Nicky Flora

... Petitioners/Petitioners

Vs.

1.The Inspector General of Registration,
100, Santhome High Road,
Raja Annamalaipuram,
Chennai - 600 028.

2.The Deputy Inspector General of Registration,
Integrated Complex of Registration Department,
TNAU Nagar,
Rajakambeeram,
Y.Othakadai,
Madurai.

3.The District Registrar(Admin),
Office of the District Registrar,
171, Palace Road,
Madurai - 1.

4.The Sub Registrar,
Sub-Registrar Office,
Arasaradi, Madurai.

5.The Tahsildar (East),
Tahsildar Office,
Madurai.

6.J.Vasanth

...Respondents/Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to impugned order issued by the third respondent District Registrar in Na.Ka.No.6475/Aa2/2021 dated 20.02.2022, quash the same as void and illegal.



For Petitioners : Mr.Isaac Mohanlal,
Senior Counsel
for M/s.Isaac Chambers.

For R-1 to R-5 : Mr.J.John Rajadurai,
Government Advocate.

For R-6 : Mr.Ramsundar Vijayaraj
for M/s.Veera Associates

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ORDER

This Writ Petition has been filed challenging the order dated 28.02.2022 passed by the third respondent cancelling the settlement deed dated 22.02.2021 registered as Document No.955/2021 executed by the first petitioner in favour of the second and third petitioners with regard to 43 cents out of 86 cents, which was the subject matter of the compromise decree passed on 24.11.2010 in A.S.(MD). No.142 of 2003.

2. The petitioners have challenged the impugned order on the ground of violation of principles of natural justice and also on the ground that the third respondent does not have jurisdiction to declare that the subject document is a forged document at the behest of a complaint given by the sixth respondent, who is the second wife of the first petitioner's brother. It is also the contention of the petitioners that the sixth respondent has no locus standi to lodge a complaint with the third respondent seeking for cancellation of the settlement deed executed by the first petitioner in favour of the second and third petitioners, as she has no share in the subject property.

3. Mr.Isaac Mohanlal, learned Senior Counsel for the petitioners drew the attention of this Court to the compromise decree passed in A.S.(MD).No.142 of 2003 as well as to the impugned order passed by the third respondent. He would submit that the sixth respondent, who is the second wife of the first petitioner's brother, has no locus standi to lodge a complaint with the third respondent seeking for cancellation of the settlement deed executed by the first petitioner in favour of the second and third petitioners, who are his daughters. He would further submit that under the compromise decree passed in A.S.(MD).No.142 of 2003 dated 24.11.2010, it does not prohibit the first petitioner to execute a settlement deed in respect of his share in the property, i.e. 43 cents out of 86 cents, as admittedly the first petitioner has 50 % share as per the compromise decree. However, according to him, by total non-application of mind to the compromise decree passed in A.S.(MD).No.142 of 2003 and without affording an opportunity of hearing to the petitioners, the impugned order has been passed cancelling the settlement deed executed by the first petitioner in favour of the second and third petitioners, who are his children. It is the contention of the learned Senior Counsel for the



petitioners that without jurisdiction, the third respondent has declared the settlement deed executed by the first petitioner in favour of the second and third petitioners as a forged one.

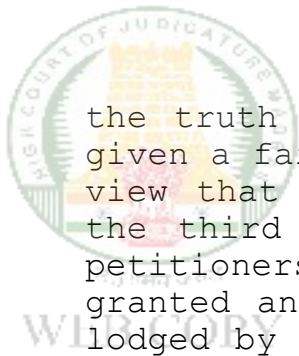
4. Mr.J.John Rajadurai, learned Government Advocate, accepts notice on behalf of the respondents 1 to 5 and Mr.Ramsundar Vijayaraj, learned counsel, accepts notice on behalf of the sixth respondent.

5. Mr.Ramsundar Vijayaraj, learned counsel for the sixth respondent, would submit that notices were sent by the third respondent to the petitioners calling upon them to appear for enquiry and the said notices were duly received, but since no explanation was submitted by the petitioners in respect of the complaint lodged by the sixth respondent, the impugned order came to be passed. He also submitted that as per the compromise decree, no alienation can be done by the first petitioner on his own and it can only be done jointly. Therefore, according to him, the third respondent has rightly cancelled the settlement deed executed by the first petitioner in favour of the second and third petitioners. He would also submit that the third respondent is having the jurisdiction to declare the subject settlement deed as a forged document by virtue of Section 77 A of the Registration Act.

6. As seen from the impugned order, the contention of the petitioners raised in this Writ Petition have not been considered by the third respondent. Admittedly, the petitioners have not filed written objections before the third respondent with regard to their contentions. The petitioners have raised various issues in this Writ Petition. According to them, the sixth respondent, who is the second wife of the first petitioner's brother, has no locus standi to lodge a complaint with the third respondent seeking for cancellation of the settlement deed executed by the first petitioner in favour of the second and third petitioners.

7. According to the petitioners, since the sixth respondent does not have any share in the subject property, she has no locus standi to challenge the settlement deed executed by the first petitioner in favour of the second and third petitioners. It is the contention of the petitioners that under the compromise decree, there is no prohibition for execution of settlement deed by the first petitioner in favour of the second and third petitioners, who are his own children. It is also the contention of the petitioners that being old, the first petitioner had to settle the property in favour of the second and third petitioners, who are his children and both his children are also married.

8. The issues raised by the petitioners before this Court have admittedly not been considered under the impugned order. Unless and
<https://hcservices.courts.gov.in/hcservices/> opportunity of hearing is granted to the petitioners,



the truth will not come out. Since the petitioners have not been given a fair opportunity of hearing, this Court is of the considered view that the principles of natural justice have been violated by the third respondent. No reasons have been given as to why the petitioners were not granted an opportunity of hearing and were not granted an opportunity to submit their objections to the complaint lodged by the sixth respondent in the impugned order passed by the third respondent.

9. For the foregoing reasons, this Court is of the considered view that the impugned order passed by the third respondent has to be necessarily quashed and the matter has to be remanded back to the third respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioners as well as the sixth respondent and any other necessary party, whom the third respondent deems fit to enquire, including granting them the right of personal hearing.

10. Accordingly, the impugned order dated 28.02.2022 passed by the third respondent is hereby quashed and the matter is remanded back to the third respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioners as well as the sixth respondent and any other necessary party, whom the third respondent deems fit to enquire, including granting them the right of personal hearing. The third respondent shall pass final orders on merits and in accordance with law within a period of three (3) months from the date of receipt of a copy of this order. It is made clear that all the grounds raised by the petitioners in this Writ Petition shall be considered by the third respondent on merits and in accordance with law in the final order to be passed by the third respondent as per the directions of this Court.

11. With the aforesaid direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

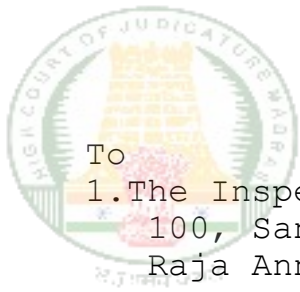
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Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant



To

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5.The Tahsildar (East),
Tahsildar Office,
Madurai.

+1 CC to M/s.S.RAMSUNDARVIJAYRAJ, Advocate (SR-13302[F]

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-13438[F]

+1 CC to M/s.SPL GP (SR-13446[F] dated 22/03/2022)

ORDER MADE IN
W.P. (MD) .No.4911 of 2022
21.03.2022

PKP/28.03.2022/5P/9C