



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.04.2022

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)Nos.14834 of 2020 and 22615 of 2021

W.P. (MD)No.14834 of 2020:-

1.S.Mani Thevar

2.S.M.Sivasamy

... Petitioners

vs.

1.The Inspector General of Registration,
No.100, Santhome High Road, Foreshore Estate,
Pattinampakkam, Chennai - 600 028.

2.The District Registrar (Administration),
Dindigul.

3.The Sub Registrar,
Nilakottai, Dindigul District.

4.Sivakumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the third respondent to assign registration number to the settlement deed, dated 05.09.2020 executed by the first petitioner in favour of the second respondent temporarily assigned Pending No.P/Nilakottai/89/2020 and return the same to the petitioners within a time limit that may be stipulated by this Court.

For Petitioners :Mr.S.Venkatasubramaniyan

For R1 to R3 :Mr.S.Shanmugavel

Additional Government Pleader

For R4

:Mr.S.Vellaichamy

W.P. (MD)No.22615 of 2021

M.Sivakumar

... Petitioner

vs.

1.The Inspector General of Registration,
No.100, Santhome High Road, Foreshore Estate,
Pattinampakkam, Chennai - 600 028.

2.The District Registrar (Administration),
Dindigul.



3.The Sub Registrar,
Nilakottai, Dindigul District.

4.S.Mani Thevar

5.M.Sivasamy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records of the impugned order of the third respondent in Na.Ka.No.196/2020(1), daetd 07.09.2020 and to quash the same.

For Petitioner	:Mr.S.Vellaichamy
For R1 to R3	:Mr.S.Shanmugavel
	Additional Government Pleader
For R4	:Died
For R5	:Mr.S.Venkatasubramaniyan

C O M M O N O R D E R

W.P.(MD)No.14834 of 2020 has been filed for a Mandamus seeking for a direction to the official respondents to register the settlement deed presented by the first petitioner for registration. Under the said settlement deed, the first petitioner, who is the father, has executed a settlement deed in favour of the second petitioner, who is his son.

2.W.P.(MD)No.22615 of 2021 has been filed challenging the impugned order, dated 07.09.2020 passed by the third respondent rejecting the petitioner's representation requesting the third respondent not to register the settlement deed presented by the father, for registration.

3.The properties involved in both the Writ Petitions are one and the same. The second petitioner in W.P.(MD)No.14834 of 2020 and the petitioner in W.P.(MD)No.22615 of 2021 are brothers. Since the properties are one and the same and the issue involved is one and the same, both the Writ Petitions are disposed of by a common order.

4.The third respondent in W.P.(MD)No.22615 of 2021 has rejected the petitioner's representation on the ground that he will have to approach the Civil Court. According to the petitioner in W.P.(MD)No.22615 of 2021, some properties that are settled by the first petitioner in W.P.(MD)No.14834 of 2020 in favour of the second petitioner, are ancestral properties and therefore, the first petitioner in W.P.(MD)No.14834 of 2020 is not legally entitled to settle the properties in favour of the second petitioner, who is the son.

5.According to him, under Section 30 of the Hindu Succession Act, such a settlement is invalid. In such circumstances, he has

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given a representation, which has been rejected by the third respondent in W.P.(MD)No.22615 of 2021 calling upon the petitioner to approach the Civil Court for the relief as sought for by him.

6. According to the petitioner, the contentions of the petitioner has not been considered by the third respondent in W.P.(MD)No.22615 of 2021 and therefore, by violating the principles of natural justice and by a non speaking order, the said order came to be passed.

7. However, it is the contention of the second petitioner in W.P.(MD)No.14834 of 2020 that settlement deed executed by the first petitioner in favour of the second petitioner is a valid settlement and only due to the representation given by the petitioner in W.P.(MD)No.22615 of 2021, the registration of settlement deed has been stalled, despite the fact that such settlement deed has already been taken on file and pending number has been given for the said document.

8. After giving due consideration to the aforementioned factors and after perusing and examining the impugned order, dated 07.09.2020 passed by the third respondent and after giving due consideration to the averments contained in the affidavits filed in support of W.P.(MD)No.14834 of 2020 and 22615 of 2021, this Court is of the considered view that in the interest of parties concerned and in view of the fact that the contention of the petitioners in both the Writ Petitions have not been considered, the impugned order, dated 07.09.2020 issued 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 second petitioner in W.P.(MD)No.14834 of 2020 and the petitioner in W.P.(MD)No.22615 of 2021 including granting them the right of personal hearing.

9. For the foregoing reasons, the impugned order, dated 07.09.2020 passed by the third respondent which is the subject matter in W.P.(MD)No.22615 of 2021 is hereby quashed and the matter is remanded back to the third respondent for fresh consideration and the third respondent shall pass final orders with regard to the registration of settlement deed presented by the first petitioner in W.P.(MD)No.14834 of 2020 in favour of the second petitioner, on merits and in accordance with law after affording a fair hearing to the second petitioner in W.P.(MD)No.14834 of 2020 and the petitioner in W.P.(MD)No.22615 of 2021 and any other necessary party whom the third respondent deems fit to enquire within a period of three months from the date of receipt of a copy of this order.



10. With the aforesaid directions, these Writ Petitions are disposed of. No costs.

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// True Copy //

Sd/-

Assistant Registrar (CS-III)

/ /2022

Sub Assistant Registrar(CS)

cmr

To

1. The Inspector General of Registration,
No.100, Santhome High Road, Foreshore Estate,
Pattinampakkam, Chennai - 600 028.

2. The District Registrar (Administration),
Dindigul.

3. The Sub Registrar,
Nilakottai, Dindigul District.

+1 CC to M/s.SPL.G.P (SR-17576[F] dated 08/04/2022)

Order made in
W.P.(MD)Nos.14834 of 2020 and 22615 of 2021
07.04.2022

SR(CO)
GC(05.05.2022) 4P 5C