



C.M.P.(MD)No.6184 of 2022
in
W.A(MD)SR.No.40713 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2022

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

C.M.P.(MD)No.6184 of 2022
in
W.A(MD)SR.No.40713 of 2022
and
W.A(MD)SR.No.40713 of 2022

R.Anbalagan

... Petitioner/Appellant

Vs.

1.Durai Nithya

2.The Inspector General of Registration,
Chennai.

3.The District Registrar,
Pattukottai District Registrar Office,
Pudukottai.

4.The Sub Registrar,
Keeramangalam, Pudukottai District. ... Respondents/Respondents

Prayer in C.M.P.(MD)No.6184 of 2022: Civil Miscellaneous Petition filed under Section 151 of Code of Civil Procedure to grant leave to the petitioner to file the above appeal.

Prayer in W.A(MD)SR.No.40713 of 2022: Writ Appeal filed under Clause 15 of the Letter Patent to set aside the order of this Court in W.P.(MD)No. 6644 of 2022, dated 22.04.2022.



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For Petitioner :Mr.S.Rajasekar
For R2 to R4 :Mr.K.Selva Ganesan
Additional Government Pleader

ORDER

(Order of the Court was delivered by **S.S.SUNDAR, J.**)

This petition is filed to grant leave to the petitioner to file the above appeal.

2.Heard Mr.S.Rajasekar, learned Counsel for the petitioner and Mr.K.Selva Ganesan, learned Additional Government Pleader, who takes notice for R2 to R4.

3.The petitioner is a third party to the Writ Petition in W.P.(MD)No.6644 of 2022. The said Writ Petition has been filed by the first respondent herein challenging the order of Sub Registrar refusing to release the sale deed executed on 01.10.2021. Under the said sale deed, the Writ Petitioner purchased a land measuring to an extent of 1.84 acres from one Samyappan, who is the son of one Chinnaiah. The said sale deed was presented for registration and it is also admitted that the sale deed was registered as Doc.No.59 of 2021. Since the petitioner herein



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placed some objections before the Sub Registrar and it appears that the sale deed was not returned to the Writ Petitioner. Hence, the Writ Petitioner filed the Writ Petition for issuing a Writ of Certiorari and Mandamus to quash the order of the fourth respondent herein, dated 21.03.2022, refusing to release the document by citing the pendency of suit in O.S.No.515 of 2018 and to direct the fourth respondent herein to release the sale deed, which was registered as Doc.No.59 of 2021.

4.The said Writ Petition was allowed by the learned Single Judge by order, dated 22.04.2022 by directing the fourth respondent herein to release the document without prejudice to the outcome of the civil suit in O.S.No.515 of 2018 on the file of the District Munsif Court, Alangudi. As against the said order, the above appeal has been presented by the petitioner along with the petition to grant leave to him to file the above appeal.

5.The learned Counsel for the petitioner states that the petitioner is a person aggrieved by the order of the learned Single Judge, as the Sub Registrar has refused to release the document only on the objection filed by the petitioner. He further submits that a suit is pending before the Civil Court and that therefore, the petitioner should be heard before passing the order in the Writ Petition.



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6.This Court is unable to countenance the arguments of the learned Counsel for the petitioner for two reasons:

(a)The Sub Registrar has a limited power while registering a deed of conveyance. He has no power to decide the question, when there is a rival claim between two persons. Therefore, the Registrar cannot refuse to register the document on the ground that there is a dispute regarding title or a civil suit is pending between two parties.

(B)The order impugned in the Writ Petition is an order contrary to the settled principles of law and hence, the learned Single Judge is right in allowing the Writ Petition.

7.This Court considered the documents produced by the petitioner in the typed set of papers. From the documents, it is seen that a suit was filed by one Chinnaiah against the predecessors-in-interest of the petitioner in O.S.No.257 of 1992 on the file of the District Munsif Court, Aranthangi. By judgment and decree, dated 30.10.1995, the said suit was decreed by holding that the said Chinnaiah is entitled for declaration of title and consequential injunction in respect of the property, which was purchased by him under sale deeds, dated 07.11.1977 and 10.09.1981. It was pleaded by the plaintiff therein that the property is sub divided as S.No.70/2E. It is seen that the title



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claimed by the said Chinniah was in respect of S.No.70/2E, which was sub divided after survey.

8.Despite the Civil Court granted a decree in favour of the said Chinnaiah, the Tahsildar has passed an order bringing the entire extent of 11.07.0 hectares in S.No.70/2A as one belonging to 44 persons, who are named in the order. The Tahsildar has not considered the judgment and decree in the suit in O.S.No.257 of 1992. Surprisingly, the Tahsildar has observed that no Court proceedings are now pending in respect of the property. This observation reveals that the Tahsildar has passed an order ignoring the Civil Court's decree. It was thereafter, the petitioner filed a petition/objection before the third respondent in the Writ Petition objecting to the sale deed being registered. On the basis of the representation of the petitioner, the Sub Registrar has erroneously passed an order refusing to return the document on the ground that there is a difference in the survey number mentioned in the Will and the sale deed. It was, further observed that by order of Tahsildar, the executant's name is removed from the revenue records. It is surprised to note that the District Registrar, by proceedings, dated 03.03.2022, has directed the Sub Registrar to accept the documents for registration on the basis of the decree obtained by Chinnaiah in the previous suit. Even after the order of District Registrar, the Sub Registrar has passed the



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impugned order which has been quashed by the learned Single Judge by allowing the Writ Petition.

9.From the sequence of events, the petitioner has come forward with a case disputing the title on the basis of an erroneous order passed by the Tahsildar ignoring the Civil Court's decree, which is binding on the parties. It is not the case of the petitioner that the decree granted earlier in the previous suit is invalid or reversed in an appeal filed by the petitioner's predecessor-in-interest. This Court find that the petitioner who has failed to establish his right before Civil Court has approached the revenue officials to render the decree of Civil Court ineffective. A conscious attempt is made to overreach the decree of Civil Court, which is not permissible under law. Hence, this petition is dismissed. No costs. Consequently, the Writ Appeal is rejected at SR stage itself. It is open to the petitioner to approach the Civil Court or establish his right in the pending litigation questioning the document of sale.

[S.S.S.R., J.] [S.S.Y., J.]
22.07.2022

Index : Yes / No

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