



W.P.(MD) No.1367 of 2014

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2022

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THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.1367 of 2014
and
M.P.(MD) No.1 of 2014**

Duraisingam

... Petitioner

/vs./

- 1.The Sub Registrar,
Registration Department,
Sub Registrar Office,
Sayalkudi,
Ramanathapuram District.
- 2.The Revenue Divisional Officer,
Kadaladi,
Ramanathapuram District.
- 3.The Tahsildar,
Kadaladi,
Ramanathapuram District.
- 4.Saravanan
- 5.Velusamy
- 6.N.J.R.Jegadish

... Respondents



W.P.(MD) No.1367 of 2014

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st respondent to cancel the registration of the deed of partition dated 12.03.2013 as document No.312/2013.

For Petitioner : Mr.Raja Karthikeyan

For R1 to R3 : Mr.S.Shanmugavel
Additional Government Pleader

For R4 : Mr.D.Senthil

ORDER

The writ petition is seeking a Writ of Mandamus to direct the first respondent, namely the Sub Registrar, Registration Department, Sub Registrar Office, Sayalkudi, Ramanathapuram District, to cancel the registration of the deed of partition dated 02.01.2013 bearing Doc.No.74 of 2013.

2.The case of the petitioner is that he is entitled for a share in the property and without his knowledge based on an illegal arbitration, the parties have entered into upon this partition deed.



W.P.(MD) No.1367 of 2014

WEB COPY

3.It is now brought to the notice of this Court that the petitioner pending this writ petition had made a representation to the District Registrar, Ramanathapuram Registration District, Ramanathapuram, seeking to cancel the registration of the very same document. This Court in W.P.(MD)No.11679 of 2015 dated 09.07.2015 had also issued directions, directing the said Authority to dispose of the complaint of the petitioner within a period of four weeks from the date of receipt of a copy of the order.

4.Pursuant to the said directions, the District Registrar, Ramanathapuram Registration District, Ramanathapuram, by order dated 01.10.2015, after giving various findings had permitted the petitioner herein to approach the appropriate Court for redressing his grievance.

5.Taking note of the subsequent proceedings that had taken place after the filing of this writ petition, I am of the view that the entire dispute would only be settled by the petitioner by taking recourse to civil proceedings before the appropriate Court. The document that is now sought to be set aside relates to the year 2013 and much time had passed, which would normally not be entertained



W.P.(MD) No.1367 of 2014

by the civil Court, as being barred by limitation. However, Section 14 of the Limitation Act excludes the time of the proceedings *bona fide* initiated in Court without jurisdiction. The present writ petition could not be entertained for the simple reason that there are disputed question of facts. Therefore, it is necessary to relegate the petitioner to approach the civil Court for remedying his grievances. In the light of Section 14 of the Limitation Act, 1963, the time period from the date on which this writ petition was filed till the date of this order shall be excluded and shall not be counted, if the petitioner prefers to approach the appropriate civil Court for any remedy.

6. With the above observations, the Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
Non Speaking : Yes / No
mm

13.12.2022



W.P.(MD) No.1367 of 2014

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W.P.(MD) No.1367 of 2014

K.KUMARESH BABU, J.

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W.P.(MD) No.1367 of 2014

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