



L.P.A(MD)No.1 of 2015

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2022

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

**L.P.A(MD)No.1 of 2015
and
M.P(MD)No.1 of 2015**

U.Bramma Sakthi

... Appellant/third party

.Vs.

1.N.Meenakshi
2.Mr.V.Selvakumar
3.The Sub-Registrar,
Eral Sub-Registrar Office,
Eral, Srivaikundam Taluk,
Srivaikundam,
Tuticorin District.

... 1st Respondent/Petitioner

4.Mr.Nayinar Pillai,
Sherestadar,
Collectorate,
Tuticorin,
Tuticorin District.



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5.Mr.Madasamy,
Tahsildar (Election),
District Collectorate,
Tuticorin.

6.Mr.V.Selvakumar,
Tahsildar,
Srivaikundram Taluk,
Srivaikundam,
Tuticorin District.

7.Mr.I.Sankaran,
Sub-Registrar,
Eral Sub-Registrar Office,
Eral, Srivaikundam Taluk,
Tuticorin District.

... Respondents 2 to 7/Contemnors

PRAYER: Letters Patent Appeal filed under Clause 15 of Letters Patent Act, to set aside the order, dated 18.11.2014 made in Cont.P(MD)No.394 of 2013 on the file of this Court insofar as the observation of the Hon'ble Single Judge regarding the registered sale deed, dated 18.01.2013 in Document No.37/2013 as null and void is concerned.

For Appellant	: Mr.M.Ajmal Khan Senior Counsel for M/s.Ajmal Associates
For R1	: Mr.Niranjan S.Kumar
For R2 to R7	: No appearance



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JUDGMENT

DR.G.JAYACHANDRAN,J.
AND
SUNDER MOHAN,J.

Heard the learned counsel appearing for the appellant and the learned counsel appearing for the first respondent.

2. Though the facts of the case has a long and chequered history, for considering this LPA, the short point is whether the appellant who is a third party to the contempt proceedings, can suffer nullification of the sale deed in her favour, to be considered whether the same was passed following the principle of natural justice or not.

3. The subject matter is in respect of portion of the land measuring 2.82 ares in Korkai Village. The land in dispute originally held by Sundaresa Ramalingam and later devolved upon his 5 sons. A civil suit for partition between the sons of Sundaresa Ramalingam has been filed in O.S.No.63 of 2008 before the Sub Court, Tuticorin and when the final decree came to be passed all the



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parties to the suit have compromised the matter and therefore, compromise decree has been passed in terms of the compromise memo, dated 05.09.2008. Thereafter, it appears that there was some dispute regarding the boundaries of the respective shares. In our view, one Narayanan the writ petitioner in W.P.(MD)No. 10332 of 2012 ought to have sorted out this dispute by filing Execution Petition for demarcation based on the compromise decree. But, he rushed to this Court invoking Article 226 of the Constitution of India seeking Writ of Mandamus after making request to the Revenue Authorities for demarcation and receiving the negative response from them.

4. This Court, after considering the merits of the request made by Mrs.M. Meenakshi, W/o.Nagalingam in W.P(MD)No.499 of 2011, disposed of the writ petition on 08.11.2011 with the following directions:-

“8. Under the said circumstances, the impugned order is stand set aside and the matter is remitted to the first respondent for making a decision in accordance with Section 10 of the Tamil Nadu Patta Book Act after due notice to the objectors, if any. This exercise shall be carried out within a period of eight weeks from the date of receipt of a copy of this order and till such time, the second respondent shall be restrained from the registration of any document in respect of



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WEB COPY *S.No.45/1A1A1A situated at Korkai Village, Srivaikundam Taluk.”*

5. The first respondent in the above writ petition, namely, the Tahsildar, Srivaikundam Taluk, could not comply the direction within the time given, though proceedings has been initiated and the enquiry conducted by the Tahsildar, decision could not be arrived with the period of 8 weeks.

6. While the fact being so, the appellant herein has purchased 30 cents of land in Survey No.45/1A1A1A from one Baby alias Ruby, who is one of the co-sharer in the property. After keeping the document pending for some time in view of the order passed in W.P(MD)No.499 of 2011, later it has been released. Hence, contempt petition was filed by the said Mrs.Meenakshi alleging that in violation of the order passed by this Court restraining the second respondent (Sub-Registrar, Srivaikundam) from registering any document in respect of survey No.45/1A1A1A situated at Korkai Village, Srivaikundam Taluk, the sale deed in favour of the appellant herein been registered and released.

7. After considering the gross violation of the order, both by not measuring, demarcating and allotting the respective shares to the parties and by allowing the



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document to be registered when there is a specific restraint order, that contempt petition was allowed on 18.11.2014. While allowing the contempt petition, the learned Single Judge, finding fault with the breach of the order as a contempt committed by the 6th respondent (the Sub-Registrar, Eral Sub-Registrar Office) imposed a fine of Rs.1000/-.

8.Incidentally, the document, which has been registered, was executed by Baby @ Ruby in favour of the appellant herein was also nullified. This Court, without going into the other facts of the case, finds that such an order passed by the learned Single Judge in the Contempt Petition touching upon the property right of the petitioner is without affording an opportunity to her. This infringes her constitutional rights as well as in violation of the principles of natural justice. Hence, the LPA is allowed, the order insofar as nullifying the sale deed, dated 18.11.2011 registered as a document No.37/2013 on the file of the Sub Registrar Office, Eral on 18.1.2013 is set aside. It is open to the parties to work out their remedy by approaching the revenue authorities or appropriate Civil Court for demarcation of the properties as per their compromise decree, in case they are not able to arrive at amicable settlement among themselves.



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9. With the above direction, the LPA is allowed. No costs.

10. It is made clear that since the parties were sparing in the High Court under the extraordinary jurisdiction of the constitution, the time spent here shall not be taken into consideration for reckoning limitation and be excluded.

[G.J.,J.] [S.M.,J.]
20.12.2022

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and
SUNDER MOHAN,J.

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JUDGMENT MADE IN
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