



W.P.(MD)No.21656 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.(MD)No.21656 of 2022

and

W.M.P.(MD)No.15795 of 2022

A.Raja

... Petitioner

Vs

1.The District Registrar,
Theni District,
Theni.

2.The Sub-Registrar,
Devaram,
Uthamapalayam Taluk,
Theni District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the order passed by the second respondent vide his proceedings in Refusal Check Slip Number: RFL/Devaram Sub-Registrar/Book 2/3 i.e., P/Devaram/21/2022, dated 12.04.2022, refused to register the release deed by the second respondent for the property in S.No.3004/8 to an extent of 0.4.75 hectare i.e., 11¾ cents land and S.No.3059/2B2 to an extent of 0.2.21 hectare i.e., 5 ¼ cents land bearing joint Patta No.5255, situated at Kombai (East) Village, Uthamapalayam Taluk, Theni District, within a jurisdiction of Sub-Registrar Office, Devaram, Theni District and set aside the same and



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consequently, direct the second respondent to register the release deed draft dated 08.03.2022, within the stipulated period as prescribed by this Court.

For Petitioner : Mr.S.Balaji

For Respondents : Ms.S.Jayapriya
Government Advocate

ORDER

The petitioner has prayed for issuance of a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the order passed by the second respondent, vide his proceedings in Refusal Check Slip Number: RFL/Devaram Sub-Registrar/Book 2/3 *i.e.*, P/Devaram/21/2022, dated 12.04.2022, refused to register the release deed for the properties in S.No. 3004/8, to an extent of 0.4.75 hectare *i.e.*, 11³/₄ cents of land and S.No. 3059/2B2 to an extent of 0.2.21 hectare *i.e.*, 5 ¹/₄ cents of land bearing Joint Patta No.5255, situated at Kombai (East) Village, Uthamapalayam Taluk, Theni District, within the jurisdiction of the second respondent, set aside the same and consequently, direct the second respondent to register the draft release deed dated 08.03.2022, within a time frame.

2.Heard Mr.S.Balaji, learned counsel appearing for the petitioner and Ms.S.Jayapriya, learned Government Advocate, who takes notice for the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.



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3.The case of the petitioner is that the second respondent/Sub-Registrar, Devaram, Uthamapalayam Taluk, Theni District, refused to register the release deed in respect of the properties in S.No.3004/8, measuring an extent of 0.4.75 Hectares i.e., 11¾ Cents and S.No.3059/2B2, measuring an extent of 0.2.21 Hectares i.e., 5¼ Cents, bearing Joint Patta No.5255, situated at Kombai (East) Village, Uthamapalayam Taluk, Theni District.

4.The learned counsel for the petitioner submits that originally, the larger extent of property situated at Kombai (East) Village, corresponding to S.No. 3004, measuring an extent of 2 Acres and 42 Cents, S.No.3059/2, measuring an extent of 64 Cents and other properties jointly belonged to the petitioner's parents namely, K.Appavu @ Rengasamy and A.Rengammal, by registered sale deed, dated 16.07.1974, vide Document No.2351/1974. On 04.06.1995, the petitioner's father passed away. Thereafter, on 06.11.2008, the petitioner's mother and other family members entered into a partition deed, vide Document No.2379/2008 and one portion of the property was allotted to the petitioner's mother and on 19.11.2015 the petitioner's mother passed away intestate. Thereafter, the petitioner herein, his sisters namely, Sangiliammal, Murugeshwari, Mala and Latha and his brothers namely, Nagarajan and Kumar inherited the property. Thereafter, Murugeshwari passed away intestate leaving



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behind her son Saravanan and daughter Jothi as her legal heirs. The said Jothi passed away intestate leaving behind her husband namely, Malaichamy, minor daughters namely, Mahalakshmi, Somira and minor son Shanmugavel as her legal heirs. Thereafter, the petitioner's sister namely, Mala passed away on 13.04.2019 intestate leaving behind her son Prabhakaran and daughter Bhavani as her legal heirs. Now, all the legal heirs have an undivided share in the petitioner's mother's property and the petitioner's brother namely, A.Nagaraj and 9 others have ready to relinquish their rights in the undivided share by way of release deed to the petitioner and the petitioner's sister namely, M.Sangiliammal, for which, they had prepared a draft release deed and submitted the same to the second respondent for registration on 08.03.2022. The said proposal for registration of release deed was rejected on 12.04.2022 by the second respondent. Hence, the petitioner has approached this Court by way of filing the present Writ Petition for the relief stated supra.

5.The learned counsel appearing for the petitioner submits that in respect of another adjacent property comprised in S.No.3059/2, sale deed was registered on 05.11.2014, vide Document No.2682/2014, by the second respondent and other properties also registered in the same survey numbers. In the present case, lot of discriminations have been shown only on the petitioner



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and the respondent cannot refuse to register the property based on Section 22(A) of the Tamil Nadu Registration Act [hereinafter referred to as "the Act"] and therefore, the learned counsel prayed for setting aside the impugned order and a direction to the second respondent to register the release deed, dated 08.03.2022.

6.Ms.S.Jayapriya, learned Government Advocate appearing for the respondents submits that the petitioner has appeal remedy before the District Registrar, Periyakulam, as against the order passed by the second respondent. The petitioner, without exhausting the said remedy, has straightaway approached this Court by way of filing the present Writ Petition and therefore, she prayed for dismissal of the Writ Petition.

7.On going through the refusal slip issued by the second respondent, it is seen that originally, the property, bearing Document No.2351/1974, was an agricultural land and purchased by the petitioner's father and it was sold by him and thereafter, his legal heirs sub-divided the same into unapproved layouts and sold the same. Subsequently, the legal heirs have partitioned the remaining properties, vide Document No.2379/2008 and obtained Patta and thereafter, they have presented the release deed, which is in violation of Section 22(A)(2)



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of the Act, and hence, the second respondent refused to register the same.

Further, there is an appeal remedy available before the District Registrar, Periyakulam, as against the order passed by the second respondent.

8.In view of the above, the petitioner can very well approach the District Registrar, Periyakulam, by filing an appeal under Section 22(A)(2) of the Act, redressing his grievances. The District Registrar, Periyakulam, is directed to consider the petitioner's appeal and pass appropriate orders on merits and in accordance with law within a period of 12 weeks from the date of receipt of a copy of this order.

9.This Writ Petition stands disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

13.09.2022

Index : Yes/No
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To

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Theni District,
Theni.



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2.The Sub-Registrar,
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V.BHAVANI SUBBAROYAN, J.

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