



W.P.(MD).No.4925 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.4925 of 2014

Chinnan

... Petitioner

-VS-

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

2.The District Registrar (Administration)
Periyakulam,
Theni District.

3.The sub Registrar,
N.R.T.Nagar,
Theni.

4.Thangaraj

5.Paappu

6.Murugan

7.Ulaganathan

8.Selvi

9.Chandramohan

10.Maheswaran

11.Inbavathi

12.Krishnaveni

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13.Sudha

14.Virumandi

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd respondent in A.Thi.Mu.No.969/E2/2014, dated 12.03.2014, quash the same and direct the 3rd respondent to strike off the document bearing No.2019, dated 19.03.2008 in the register of the 3rd respondent.

For Petitioner	: Mr.M.Saravanan
For R1 to R3	: Mr.S.Selvaganesan, Additional Government Pleader
For R4	:Mr.K.Govindarajan
For R4, R6, R8, R9	:Mr.M.Thirunavukarasu for Mr.R.Karunanithi
For R5,R7,R10, R11,R12,R13	: No appearance

ORDER

The present writ petition has been filed seeking to quash the order passed by the second respondent herein, under which, he had refused to cancel the sale agreement said to have been executed by R4 to R13 in favour of R14.



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2. According to the learned counsel for the petitioner, the property in dispute belongs to one Thavasi Thevar, who died intestate leaving behind his two sons viz., Periyakaruppan and Chinna Thevar and one daughter viz., Ochammal. After his death, the sons viz., Periyakaruppan and Chinna Thevar have entered into a registered partition deed on 10.06.1994 partitioning the properties between themselves. The said document was also attested by their sister Ochammal. On the same day, the said Ochammal is said to have executed an athachi in favour of Periyakaruppan and Chinna Thevar to the effect of receiving certain amount towards consideration of relinquish her share in the joint family properties. Hence, the said Ochammal has no share whatsoever in the property of Thavasi Thevar.

3. The learned counsel for the petitioner further submitted that the legal heirs of the deceased Ochammal viz., R4 to R13 have executed a registered sale agreement in favour of R14 on 19.03.2008, only with an intention to create encumbrance over the property without having any share in the property. Hence, the present writ petition has been filed to strike off the said document and delete the entry from the encumbrance certificate. However, the said request made by the writ petitioner was rejected under the



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impugned order stating that it seems to be a title deed between the parties.

This order is under challenge in the present writ petition.

4.Per contra, the learned counsel appearing for the private respondents contended that the said Ochammal has not relinquished her share and her legal heirs had filed a suit in O.S.No.109 of 2009 before the District Munsif Court, Theni, for the relief of partition of their 1/3rd share. The said suit was dismissed on 28.03.2017. Challenging the same, they had filed A.S.No.26 of 2017 on the file of the Sub-Court, Theni, which was also dismissed on 02.08.2022 and they have proposed to file a second appeal. The validity of the partition deed is in dispute in the said second appeal and hence, the contention of the petitioner that the said Ochammal had relinquished her share in the disputed properties, has not yet attained finality. At this stage, the contention of the petitioner that the sale agreement dated 19.03.2008 cannot be considered to be a fraudulent document and the second respondent cannot be called upon to conduct an enquiry and hence, they prayed for dismissal of the writ petition.

5.I have considered the rival submissions made on either side.



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6.Narration of the facts and events as stated above will clearly indicate that the private respondents claimed that the said Ochammal had not relinquished her share. On the other hand, the petitioner claims that the said Ochammal had relinquished her share in the joint family properties. This issue is the subject matter of the civil proceedings and the subject matter of the proposed second appeal to be filed before this Court. At this stage, this Court cannot arrive at a finding that the sale agreement is a fraudulent one or can direct the second respondent to conduct an enquiry under Section 77-A of the Registration Act. However, once the second appeal is disposed of, the petitioner is at liberty to renew his request for an enquiry by the second respondent herein under Section 77-A of the Registration Act.

7.With the aforesaid observations, this Writ Petition stands disposed of. No costs.

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Index : Yes / No
Internet : Yes / No



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R.VIJAYAKUMAR,J.

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