



W.P.(MD)No.22759 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.09.2022

CORAM

THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD) No.22759 of 2022

S.Sumathi

.. Petitioner

Versus

1.The District Registrar,
Dindigul District.

2.The Sub-Registrar,
Sanarpatti Sub-Registration Office,
Sanarpatti, Dindigul District.

3.S.Ramajeyam

4.D.Lajapathi

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 and 2 not to register the settlement deed, dated 01.08.2022, executed by the third respondent in respect of the properties bearing S.Nos.251/4 and 251/6, situated in Vembarpatti Village, Dindigul, on the basis of the representation of the petitioner, dated 01.08.2022.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents 1 and 2 : Mr.S.R.A.Ramachandran
Additional Government Pleader



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ORDER

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The petitioner has prayed for issuance of a Writ of Mandamus, directing the respondents 1 and 2 not to register the settlement deed, dated 01.08.2022, executed by the third respondent in respect of the properties bearing S.Nos. 251/4 and 251/6, situated in Vembarpatti Village, Dindigul, on the basis of her representation, dated 01.08.2022.

2.The case of the petitioner is that originally, her father inherited the properties bearing S.Nos.251/4 and 251/16, measuring an extent of 2.67 Acres, situated at Vembarpatti Village, Dindigul District, by virtue of partition deed, dated 19.12.1988. The petitioner submits that the legal heirs of the her father are enjoying the same as common property, by cultivating coconut trees. On 14.05.2019 the petitioner's father and her two sisters namely, Rukmani Devi and Thenmozhi conveyed their undivided share in the aforesaid property in favour of the petitioner and executed a gift settlement deed. Thereafter, the petitioner's father died on 03.05.2021. After the death of her father, the petitioner is entitled to 4/6th share, including the share of her father, in the said properties and held the same in common with other brother and sister, namely, the respondents 3 and 4 herein.



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3.The petitioner submits that the property being ancestral property held between the joint family members, she is having a right of pre-emption over the shares of other family members. As such, the respondents 3 and 4, in case of leaving the joint family or to sell any of their share, the same is to be sold to the petitioner and such right would prevent the property from being fragmented. The third respondent accepting the petitioner's right, agreed to convey her share on the said property during the life time of her father and received a sum of Rs.5 Lakhs and agreed to execute a sale deed on a further sum of Rs.5 Lakhs. After the death of the petitioner's father, the attitude of the respondents 3 and 4 has changed and the third respondent has negotiated for sale of the properties to third parties. In furtherance of the said intention, the third respondent initially attempted to execute a settlement deed, dated 01.08.2022, in favour of one Kavya, who is the relative, and approached this Court by way of filing a Writ Petition in W.P.(MD)No.19038 of 2022, to direct the respondents 1 and 2 to register the said document. The said Writ Petition is pending and the petitioner has filed a Miscellaneous Petition in W.M.P.(MD)No.15134 of 2022 for impleading her as a respondent.

4.The petitioner further submits that realizing that she could not succeed in the Writ Petition, the third respondent has persuaded the second respondent with political influence and she was advised to withdraw the Writ Petition to



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get the document registered and certain political people having influence are attempting to grab the joint family properties and sit over the same by purchasing the share of the third respondent. As the property being a single composite property, the petitioner has a right of pre-emption and she is entitled to purchase the same at a market price from the third respondent, in case, the third respondent decides to sell her share. Hence, the petitioner submitted a representation to the second respondent. On receiving the same, the second respondent registered the same as Objection Petition No.13/2022. However, the second respondent would proceed to register the document in respect of the aforesaid joint family properties at the instance of the third respondent. If any such document is registered, the same will affect the petitioner's right, particularly, her right to purchase the same. The said property has not been divided by metes and bounds and therefore, the third respondent has no right to sell the same without the consent of other family members. Hence, the petitioner has approached this Court by way of filing the present Writ Petition for the relief stated supra.

5.The learned Additional Government Pleader appearing for the respondents 1 and 2 submits that the settlement deed presented by the third respondent on 03.08.2022 was returned and refused for registration, vide Refusal Check Slip No.RFL/Sanarpatti/9/2022, dated 03.08.2022, wherein it



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has been stated that on verification, it was found that the property is a joint family property and not partitioned among the family members so far and after partition only, the same can be registered and further, no original document has been produced for verification and also there was an objection filed by the petitioner herein and therefore, the said document has been refused for registration and returned to the third respondent.

6.As per the instructions of the learned Additional Government Pleader appearing for the respondents 1 and 2, it is clear that the document presented by the third respondent has been refused for registration and returned. That being the case, the relief sought for by the petitioner *i.e.*, to direct the respondents 1 and 2 not to register the settlement deed executed by the third respondent, dated 01.08.2022, in respect of the properties, bearing S.Nos. 251/4 and 251/6, situated at Vembarpatti Village, Dindigul, cannot be granted at this stage, as already the cause, against which, the petitioner seeks the relief is not available and therefore, the same is rejected and there is no possibility for this Court to pass any order. Hence, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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To

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- 1.The District Registrar,
Dindigul District.
- 2.The Sub-Registrar,
Sanarpatti Sub-Registration Office,
Sanarpatti, Dindigul District.



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V.BHAVANI SUBBAROYAN, J.

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Order made in
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