



W.P.No.13629 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13629 of 2023

E.Gopal

... Petitioner

Vs

The District Registrar,
O/o, The District Registrar,
Chengalpattu, Chengalpattu District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent to take necessary action on the representation dated 02.03.2023 sent by the petitioner.

For Petitioner : Mr.V.Kishore
For Respondents : Mr.D.Ravichander
Special Government Pleader

ORDER

The relief sought for in the writ petition is to direct the respondent to take necessary action on the representation of the petitioner dated 02.03.2023.



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2. The representation sent by the writ petitioner to the District Registrar reveals that a partition deed was executed in Document No.580/1989 and 12225/2011 in respect of the family properties.

3.The learned counsel for the petitioner states that the petitioner had no knowledge about the registration of partition deed during the relevant point of time in the year 1989 and 2011. Thus to cancel the said documents, the petitioner sent representation to the District Registrar for conducting an enquiry. Since the representation was not considered, the petitioner is constrained to move the present writ petition.

4. Admittedly the partition deed was executed in the year 1989 between the family members and the petitioner states that he is not a party to the document. If so, the petitioner has approached the competent Civil Court for the purpose of establishing his civil right in the manner known to law.

5. Article 59 of the Limitation Act, 1963 prescribes 3 years time limit



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for cancellation of instrument and the petitioner if at all states that he had no knowledge about any such registration of partition deed, he has to establish the same before the competent Civil Court for the purpose of condoning the delay and to file an independent suit on merits. Section 3 of the Limitation Act stipulates 'Bar of Limitation'. Under Section 3, the competent Civil Court is permitted to conduct an enquiry with reference to the point of limitation and the reasons furnished by the parties for the purpose of adjudication of suit on merits though the ground has not raised by the defendants in the suit.

6. Therefore, mere delay in filing a suit would not be a bar and the petitioner is entitled to establish the reason for such delay for entertaining a suit and for adjudication of the issues on merits. However, the District Registrar cannot entertain any application for cancellation of such documents which were registered long back and therefore, this Court did not find any reason for the purpose of issuing a direction to the District Registrar to adjudicate the issues based on the representation sent by the writ petitioner. Mere sending a representation in this regard would do no service to the cause of justice. The District Registrar is not empowered to adjudicate



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the issues in view of the conflict of the document registered in the year 1989, the petitioner has to establish his right in respect of the subject property and therefore, the petitioner is at liberty to approach the competent Civil Court of law for the purpose of establishing his rights and to resolve the issues.

7. With this liberty, this Writ Petition stands disposed of. There shall be no order as to costs.

01.06.2023

Index : Yes

Speaking Order : Yes

Sgl

To
The District Registrar,
O/o, The District Registrar,
Chengalpattu,
Chengalpattu District.



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S.M.SUBRAMANIAM, J.

Sgl

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