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W.P.No.17312 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17312 of 2020

and

W.M.P.No.21417 of 2020

E.Velu

... Petitioner

Vs.

1.The Inspector General of Registration,
Registration Department,
No.100, Pattinapakkam,
Chennai – 600 028.

2.The District Registrar,
District Registration Office,
Dindivanam Registration District,
Dindivanam.

3.The Sub-Registrar,
Avaraipakkam Sub-Registrar of Office,
Avaraipakkam,
Villupuram District.

4.Srinivasan (Died)

5.Mrs.Devaki

6.K.Seranathan

7.K.Aarthi

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8.Karthik

[R8 impleaded vide order dated 11.08.2023 made in W.M.P.No.27767 of 2022 in W.P.No.17312 of 2020 by SMSJ]

9.Mathivannan

10.Kalaivannan

11.Malathi

12.Mallika

13.Poonkuzhali

[R9 to R13 substituted as legal heirs of deceased R4 vide order dated 11.08.2023 made in W.M.P.No.23548 of 2022 in W.P.No.17312 of 2020 by SMSJ]

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records, relating to rejection of document by the 3rd respondent by proceedings in Memo No.02 of 2019 dated 01.02.2019 and the proceeding of the 2nd respondent in Na.Ka.No.2822/B1/2019 dated 22.05.2020 and the proceeding of the 2nd respondent in Na.Ka.No.2822/B1/2019 dated 05.06.2020 and consequently direct the 3rd respondent to register the petitioner's released deed dated 01.02.2019 forthwith.

For petitioner	: No appearance
For Respondents (For R1 to R3)	: : Mr.E.Sundaram, Government Advocate.



(For R4)	: Died steps taken
(For R5 to R7)	: Mr.K.Balu
(For R8)	: Mr.S.N.Subramani
(For R9 to R13)	: Not ready in notice

ORDER

The order impugned, dated 01.02.2019, issued by the Sub-Registrar, refusing to register the release deed, is under challenge in the present writ petition.

2. The writ petitioner states that he is the owner of the subject property described in the present writ petition. The petitioner presented a release deed for registration. The said document was returned by the Registering Authority on the ground that Patta has not been granted in the name of the writ petitioner and therefore, under Rule 55 of the Registration Rules, the Authorities are empowered to refuse the registration.

3. The learned Government Advocate, appearing on behalf of the Official respondents, made a submission that the subject property was alienated by the contesting respondents and therefore, there are several transactions and entries made in the Encumbrance Certificate. When the title



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was not made clear, the Sub-Registrar is empowered to refuse the registration. In such circumstances, the parties have to approach the competent Civil Court of law for the purpose of resolving the issues.

Paragraph 7 of the Counter filed by the Sub-Registrar reads as under:

“the survey numbers viz.8/20 Hec.0.14.5, 8/21-Hec.0.19.55/5-Hec. 2.13 acres, in Varagupattu Village and S.No.142/1-0.60 acres in Erayanur Village which are the subject matter of Release deed in question has already been alienated by other persons based on the patta in their name. A gift deed dated 05-09-2012 was executed by Mrs.Devaki, wife of Srinivasan, the 5th respondent, herein, to Mr.Seralathan, relate to S.No.8/20 in Varagupattu Village registered as Doct.No.4899 of 2012. The above said Mrs.Devaki executed Settlement deed dated 05-09-2012 in favour of his son, Mr.Seralathan, the 6th respondent, herein, of the S.No.142/14 in Erayanur village measuring 61 cents, registered as Doct.No.4894 of 2012 and the patta stood in the name of Mr.Srinivasan, son of Subramania Gounder. The said Mr.Seralathan in turn settled the above said survey number to his wife, Mrs.K.Arthi, the 7th respondent, herein, registered as Doct.No.299 of 2019. As regards S.No.8/21 and 5/5 in Varagupattu Village a Deed of Settlement dated 16.05.2019 was



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executed by Mr.G.Ganapathy in favour of Mr.R.Kathik, registered as Doct.No.1293 of 2019. Mere possession of original documents cannot confer any right over the properties dealt with therein unless the possession is also with the person who is having the deeds. Patta is issued to the person who is in enjoyment of the property and liable to pass the cess. Mere possession of original title deed will not confer any title when the adverse possession is with the third party. The petitioner has not taken any steps to discredit the documents which are already alienated by others by filing suit and to seek declaration of title over the properties which are the subject matter of Release Deed. The petitioner in order to create cloud over the rights of the persons who is in enjoyment as per patta executed the Release deed in question. Hence, the contention of the petitioner is not sustainable either in law or on facts.”

4. In view of the facts and circumstances, the petitioner is at liberty to approach the Civil Court of law for the purpose of establishing his Civil rights based on the documents and evidence available on record. This Court does not find any infirmity in respect of order of rejection passed by the Sub-Registrar.



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5. Accordingly, the writ petition stands **dismissed**. No costs.

Consequently, connected miscellaneous petition is closed.

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Index: Yes
Speaking order
Neutral Citation: Yes
veda/sha

To

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Chennai – 600 028.
2. The District Registrar,
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S.M.SUBRAMANIAM, J.

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