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W.P.No.21768 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.21768 of 2023

1.P.Balaraman

2.B.Muniyan Reddy

... Petitioners

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road, Pattinapakkam,
Santhome, Raja Annamalai Puram,
Chennai – 600 028.

2.The Sub Collector,
The Office of Collectorate,
Ponneri,
Thiruvallur – 601 201.

3.The Sub-Registrar,
Registration Department,
Gummidipoondi Sub-Registrar Office,
Thiruvallur – 601 201.

4.Mr.Muniyappa

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3rd respondent to consider the petitioner's reply dated 13.03.2023.



For Petitioner

: Mr.A.Thiaga Rajan,
Senior Counsel

for Mr.R.Ashraf Khan

For R1 to R3

: Mr.D.Ravichander,
Special Government Pleader

ORDER

The relief sought for in the present writ petition is to direct the 3rd respondent to consider the petitioner's reply dated 13.03.2023.

2. The grievances of the writ petitioners are that the 4th respondent has presented a partition deed for registration. Based on the objections raised by the petitioners, it was not entertained. The 4th respondent along with other persons have filed writ petition in W.P.No.30597 of 2022 and this Court passed an order on 17.11.2022 as follows:-

“ 8. It is the claim of the petitioner that the pendency of the suit with respect to the subject property cannot be a bar for registration of the document related to the very same property, however, on going through the facts and circumstances of the present case on hand, this Court is of the view that in the absence of any



WEB COPY

W.P.No.21768 of 2



interim order in the suit restraining the alienation of the property the refusal to register the document citing the pendency of the suit is not sustainable.

9. Accordingly, this Writ Petition is allowed in the above terms and the second Respondent/The Sub Registrar is directed to entertain the document on payment of necessary stamp duty and registration charges, if there is no restraint order. No Costs.”

3. Pursuant to the aforesaid order, the registering authority has not initiated further steps to register the partition deed. Further, the petitioners also have submitted objections and reply to the registering authority asking him to consider their reply and pass appropriate orders.

4. The learned Senior Counsel appearing on behalf of the writ petitioners mainly contended that the reply given by the writ petitioners have not been considered by the registering authority and no orders has been passed. Thus, the petitioners have filed this writ petition seeking the 3rd respondent to consider the reply submitted by the writ petitioners on 13.03.2023 and pass appropriate orders.

5. Question arises as to whether the Sub Registrar / the registering



authority is empowered to consider such objections against the documents presented by a person for registration.

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6. Rule 55 of the Registration Rules in clear terms stipulates as follows:-

“It forms no part of a registering officer’s duty to enquire into the validity of a document brought to him for registration or to attend to any written or verbal protest against the registration of a document based on the ground that the executing party had no right to execute the document; but he is bound to consider objections raised on any of the grounds stated below:-

- (a) that the parties appearing or about to appear before him are not the persons they profess to be;*
- (b) that the document is forged;*
- (c) that the person appearing as a representative, assign or agent, has not right to appear in that capacity;*
- (d) that the executing party is not really dead, as alleged by the party applying for registration; or*
- (e) that the executing party is a minor or an idiot or a lunatic.”*

7. Therefore, the registering authority is empowered to consider the



objections only in respect of the exceptions carved out under Rule 55 of the Registration Rules.

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8. In the absence of any such objection within the purview of the Registration Rules, the authority competent is not empowered to decide the civil rights between the parties. Therefore, the registering authority has to verify whether the objections / reply submitted by the writ petitioner is falling under anyone of the ground stipulated under Rule 55 of the Registration Rules and if it is not so, then there is no option but to proceed with the registration in the manner contemplated under the Registration Act.

9. With these clarifications, the writ petition stands disposed. No costs.

25.07.2023
2/2

skr
Index : Yes
Speaking order
Neutral Citation : Yes



To

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No.100, Santhome High Road, Pattinapakkam,
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WEB COPY

W.P.No.21768 of 2



S.M.SUBRAMANIAM, J.

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25.07.2023

2/2