



WEB COPY



W.P.No.4194 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2023

CORAM :
THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.4194 of 2017

1.Manjula

2.Malarkodi

3.Anitha

Rep.by their Power of Attorney

Agent Mr. S. Senthilkumar

... Petitioners

Versus

1.The District Registrar,

Sathuvatchari,

Vellore District, Vellore.

2.The Sub Registrar,

O/o. Sub Registrar,

Tirpattur, Vellore District.

3.T.R. Murali

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorified Mandamus, to call for the records of the impugned check slip No.1/2017, dated 03.01.2017 passed by the 2nd respondent and quash the same and consequently direct the 2nd respondent to register the document dated 20.01.2017 furnished by the petitioners.

For Petitioners : Mr. Avinash Wadhwani

For Respondents : Mr. V. Veluchamy, AGP (for R1 & R2)

: Mr. C.S. Vijyakumar (for R3)



W.P.No.4194 of 2017

WEB COPY

ORDER

This writ petition has been filed challenging the check slip No.1/2017 dated 03.01.2017 passed by the second respondent and to direct the second respondent to register the document dated 20.01.2017 furnished by the petitioners.

2. The learned counsel for the petitioners submitted that the role of respondents 1 & 2 is to verify the documents for registration of property under the relevant provisions of the Registration Act and the Registration Rules framed thereunder. Respondents 1 & 2 have no authority to question the title or entitlement of the parties. The learned counsel for the petitioners has further submitted that the reasons given in the impugned check slip No.1/2017, dated 03.01.2017 issued by the second respondent is contrary to the relevant provisions of the Registration Act and the Rules framed thereunder, based on which, the second respondent has no authority to reject the registration. Therefore, the impugned order passed by the second respondent/ the Sub-Registrar is arbitrary and unsustainable in law.



W.P.No.4194 of 2017

WEB COPY

3. A Counter affidavit is filed by respondents 1 & 2 which shows that the respondents entertained a doubt as to the right and title over the property in question.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. A perusal of records reveals that though respondents 1 & 2 have not stated reasons elaborately in the impugned check silp, a mere reading of the counter itself shows that the Sub-Registrar has entertained a doubt with respect to the entitlement of subject property, which is also against the provisions of law. Therefore, the impugned check slip passed by the second respondent is liable to be set aside.

6. However, the original owner of the property was said to have executed a settlement deed in favour of one Mr. Raji Kannu Gounder, and thereafter, the said Mr. Raji Kannu Gounder executed the property in favour of the third respondent/T.R.Murali, who is his son, vide Doc.No.1882 of 2015, dated 28.02.2015.



W.P.No.4194 of 2017

WEB COPY

7. Sometime later, it is seen that the wife of the said Mr. Raji Kannu Gounder executed a settlement deed, dated 2.11.2015 in favour of the petitioners i.e., daughters of the third respondent/T.R.Murali, vide Docment.No.9764 of 2015. Based on the said document, on 02.11.2015, the petitioners executed a Power of Attorney, dated 23.12.2015 in favour of one S.Senthilkumar, pursuant to which, he executed a Sale Agreement, dated 02.01.2017 in favour of one Mr.K.Nagarathinam and the said agreement, dated 02.01.2017 document was presented for registration. But, the Sub-Registrar, without registering the same, issued the above said impugned check slip, which is under challenge in this writ petition.

8. A perusal of the records shows that the petitioners are claiming right over 50% of the property executed by the said Mr.Raji Kannu Gounder in favour of his son, vide Doc.No.1882 of 2015, dated 28.02.2015, which is an anterior in point of time.

9. Under such circumstances, even though the Sub-Registrar may not have any jurisdiction to entertain the dispute regarding title, it is asserted that the said Mr. Raji Kannu Gounder executed a document dated



W.P.No.4194 of 2017

27.02.2015 in favour of his son and thereafter, his wife, Mrs.Pachiammal executed 50% of the said properties owned by him, on 28.02.2015, in favour of the petitioners, who are none other than the daughters of the third respondent, and hence, the said two executions are done for the same property on the consecutive days. Therefore, the determination of rightful ownership and validity must be addressed either by the Civil Court or the District Registrar, and it is not within the purview of this Writ Court.

10. Since the issue is relating to the ownership of the properties, it has to be decided only by the competent Civil Court, based upon the oral and documentary evidence, and in order to resolve the issue and ensure the substantial justice, this Court is of the view that the impugned check slip No.1/2017, dated 03.01.2017 issued by the second respondent is unwarranted and is liable to be set aside. However, the petitioners are at liberty to seek remedy before the Civil Court concerning the subject matter in dispute.

11. To prevent any further complications, the respondents are instructed not to entertain any document related to the aforementioned



W.P.No.4194 of 2017

property, until the petitioners approach the Civil Court and obtain a suitable order. It is imperative that the petitioners should approach the Civil Court to secure appropriate order regarding their right and title over the property in question. Only upon obtaining such an order from the Civil Court, the respondents shall proceed with the registering of any document related to the property in question.

12. With the above observations and directions, the Writ petition stands disposed of. No costs.

27.11.2023

Index : Yes/No
Speaking / Non-Speaking order
Neutral Citation : Yes/No

klt

To:

1.The District Registrar,
Sathuvatchari,
Vellore District, Vellore.

2.The Sub Registrar,
O/o. Sub Registrar,
Tirpattur, Vellore District.



WEB COPY



W.P.No.4194 of 2017

P. VELMURUGAN, J.

klt

W.P.No.4194 of 2017

27.11.2023