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W.P. No.31544 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2023

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.31544 of 2023

Rajam

... Petitioner

Vs.

1. The Inspector General of Registration
100, Santhome Road,
Chennai

2. The District Registrar
Namakkal District

3. The Sub-Registrar
Office of Sub-Registrar
Kumarapalayam
Namakkal District

4. Mrs.Sellammal

5. Mrs.Perumayi

6. Mrs.Bhavayi

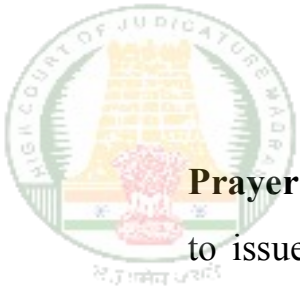
7. Mrs.Sivagami

8. Kalliyammal

9. A.Radha

10. Sasimagibalan

... Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue writ of Certiorarified Mandamus to call for the records of the 2nd respondent in Mu/Mu/No.3213/AA1/2023 dated 17.08.2023, quash the same and direct the 3rd respondent to register the petitioner's sale deed executed in favour of her grand-daughter dated 23.08.2023 within time frame to be fixed by this Court.

For Petitioner : Mr.K.Hemanathan

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader
for R1 to R3

ORDER

This Writ Petition is filed for a writ of Certiorarified Mandamus to call for the records of the 2nd respondent in Mu/Mu/No.3213/AA1/2023 dated 17.08.2023, quash the same and direct the 3rd respondent to register the petitioner's sale deed executed in favour of her grand-daughter dated 23.08.2023 within time frame to be fixed by this Court.

2. The learned counsel for the petitioner submitted that the petitioner had presented a sale deed before the 3rd respondent for registration and the 3rd respondent refused to register the same and issued a refusal check slip



dated 23.08.2023 directing the petitioner to re-present the sale deed along with the original parental document Nos.407/1935, 1261/1945 and 1225/1947 on the file of the SRO, Sankari. He would submit that all the documents which were directed to be produced by the 3rd respondent are with one of the legal heirs, namely the 10th respondent herein.

3. It is further submitted by the learned counsel for the petitioner that earlier, the petitioner had made a representation dated 17.04.2023 to the 2nd respondent for transfer of 1/18th share and as per the Circular No.22482/C1/2022 dated 02.02.2023 issued by the Inspector General of Registration, the District Registrar/2nd respondent, after conducting enquiry, passed the impugned order dated 17.08.2023 stating that the Court has to decide the ownership and title over the property. Challenging the same, now the petitioner has filed the present writ petition.

4. A perusal of the records shows that the petitioner has presented the document before the 3rd respondent and the 3rd respondent has issued refusal check slip stating to re-present the same with original parental documents.



5. The contention of the petitioner is that all the documents which were directed to be produced by the 3rd respondent are with one of the legal heirs namely the 10th respondent herein. Admittedly, the 10th respondent is one of the legal heirs. Further, already the 9th respondent who is also one of the legal heirs, has filed a suit for partition in O.S.No.60 of 2022 on the file of the 1st Additional District Judge, Namakkal. No doubt, as per the circular No.22482/C1/2022 dated 02.02.2023 issued by the Inspector General of Registration, if there is any dispute regarding withholding of documents by one of the legal heirs, which is required for the registration, the Sub Registrar has to refer the matter to the Registrar or refuse to register the document and the party can refer the matter to the District Registrar namely the 2nd respondent herein. As such, the 2nd respondent herein, after conducting enquiry and hearing the matters, has passed the impugned order directing the parties to work out their remedy before the Civil Court, since a civil suit is pending.

6. Since the original documents are said to have been in possession of the 10th respondent who is one of the legal heirs and already, the 9th respondent is said to have filed a suit in O.S.No.60 of 2022 on the file of the 1st Additional District Judge, Namakkal and the same is pending, this Court



finds no perversity in the order passed by the 2nd respondent.

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7. Since already the respondent in respect of the subject property pending with the Civil Court and the documents are also in the possession of one of the parties in the Civil Court, the petitioner is at liberty to approach the Civil Court and work out his remedy before the Civil Court in O.S.No.60 of 2022.

8. With the above directions, the Writ Petition is dismissed at the admission stage itself. No costs.

02.11.2023

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

To

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P.VELMURUGAN. J.

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