



W.P(MD)No.1629 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.1629 of 2022

and

W.M.P.(MD)No.22728 of 2023

Tamilselvi

... Petitioner

Vs.

1.The District Registrar,
Periyakulam Division,
Periyakulam,
Theni District.

2.The Sub Registrar,
Sub Registrar Office,
Sindhupatti,
Madurai.

3.R.Pradeepa

... Respondents

*(R3 is suo motu impleaded vide order dated
04.10.2023 in W.P.(MD)No.1629 of 2022 by
GRSJ)*

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling the records pertaining to the order passed by the 2nd respondent



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in Na.ka.No.185 of 2021 dated 26.07.2021 and subsequent order passed by the 1st respondent in appeal Na.ka.No.3532/B1/2021 dated 23.12.2021 and quash it and further direction to the 2nd respondent to register the pending document No.5 of 2021 on the file of 2nd respondent.

For Petitioner : Mr.**K.K.Samy**

For Respondents : Mr.V.Nirmal Kumar,
Government Advocate for R1 & R2.
Mr.J.Senthil Kumaraiah for R3.

ORDER

Heard both sides.

2.One Ramasamy had executed the petition mentioned sale deed in favour of the petitioner. It was presented for registration. Citing the objections lodged by the third respondent, the registering authority declined to register the document. Refusal check slip dated 26.07.2021 was issued. Challenging the same, the present writ petition came to be filed.

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3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed.

4.The learned counsel for the third respondent submitted that Ramasamy was legally wedded to one Kasammal and through the said wedlock, the third respondent was born in the year 1999. The marital relationship between Ramasamy and Kasammal had come under strain. The third respondent would allege that the petitioner and Ramasamy are living in an illegal relationship and that the gift of the petition mentioned property has been fraudulently styled as sale. It is further contended that the properties covered by the petition mentioned sale deed are joint family properties and that since the parties are Hindus, the third respondent by virtue of her very birth in the family is having a share in the property.

5.I am of the view that this issue need not be gone into at this stage. Since the third respondent had not obtained any restraint order, the



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petition mentioned document can very well be re-presented and the second respondent shall register the same and release it subject to fulfillment of usual formalities.

6.However, this transaction will be subject to the rights of the third respondent. It is open to the third respondent to file a partition suit and the conveyance of the properties by Ramasamy in favour of the petitioner will be subject to the outcome of the said suit.

7.The impugned refusal check slip is set aside and this writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

29.11.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

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Periyakulam,
Theni District.
- 2.The Sub Registrar,
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G.R.SWAMINATHAN, J.

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