



W.P(MD)No.5018 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.06.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.5018 of 2022

and

W.M.P(MD)Nos. 4116 and 4117 of 2023

Anandavadivel (died)

2.Manimekalai

3.Adhivigneswaran

4.Adhipriyanka

(P2 to P4 are substituted vide
Court order dated 15.07.2022)

... Petitioners

Vs.

1.The District Registrar (Administration),
Sivagangai District,
Sivagangai.

2.The Sub-Registrar,
Joint No.II,
Sivagangai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Certiorarified Mandamus, calling for the



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records pertaining to the Impugned Order passed by the 2nd Respondent vide his Proceedings in Refusal Number. RFL/2 Number Joint Sub Registrar, Sivagangai/1/2022, dated 02.03.2022 and quash the same as illegal and consequently direct the 2nd Respondent to register the document of sale deed dated 17.11.2021 presented by the petitioner.

For Petitioners : Mr.N.Anandakumar

For Respondents : Mr.J.John Rajadurai
Government Advocate

ORDER

This writ petition has been filed in the nature of Certiorarified Mandamus relating to refusal check slip in RFL/2 Number, issued by the Joint Sub Registrar/Sivagangai/1/2022 dated 02.03.2022 and to consequently direct the second respondent / Sub Registrar, Joint No.II, Sivagangai, to register a document of sale dated 17.11.2021, presented by the petitioner herein.

2. There appears to be a long and winding history behind the property which was in the schedule in the sale deed presented for registration by the petitioner herein. It must be stated that the writ petition was filed by Anantha Vadivel who died during the pendency of the writ petition and his legal heirs had been substituted as petitioners to further prosecute the writ petition.



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3. The learned counsel for the petitioner pointing out the facts stated that a larger extent of land was originally owned by one Vethamuthu who had purchased the same on 16.05.1980 from one Asaf Ali. His son Nallathambi was the only male legal heir. The subsequent purchasers, more particularly the writ petitioners, had failed to take into consideration the fact that Nallathambi had a sister. Nallathambi however proceeded to divide the land into plots and commenced selling the plots from the year 2006 onwards.

4. The present writ petition is confined to plot No.13. This particular plot was sold by Nallathambi to one Ravi in the year 2006. Subsequently, Ravi sold it to Regina Mary in the year 2011. Regina Mary had offered the property as collateral security consequent to her obtaining loan from Sundaram Finance Ltd., in the year 2015. She died. Her legal heirs had then come forward to sell the property to the writ petitioner Anantha Vadivel. When this sale deed was presented for registration, the refusal check slip was issued by the second respondent on the ground that the sister of Nallathambi about whom mention was made earlier, had filed a suit and obtained a decree that she was entitled to one half share of her father Vethamuthu's property. Naturally, she has a claim against every plot which had been sold by Nallathambi. But it is stated by the



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learned counsel that Nallathambi had questioned that particularly decree granted by the trial Court and the matter is pending in Second Appeal before this Court and stay of the decree had also been granted.

5. If at all, the sister has any share, she can only have a share in the value of the property but cannot have a charge over the property. Property had changed hands originally from Nallathambi to Ravi to Regina Mary then mortgaged and then to the legal heirs of Regina Mary. The second respondent may register the document of sale, but, the petitioners will have to answer the claim of the sister of Nallathambi if at all she presents a claim for one half share. But however, she can only claim the value of the property as on the date of decree of the partition and not as on the market value on which the petitioners are today purchasing the property. This is an issue only between the petitioners and the sister of Nallathambi and since the property had already been conveyed, atleast twice, the sale deed cannot be refused to be registered. A direction is given to the second respondent to register the document if it is otherwise in order. No further directions are required.



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6. This Writ Petition is disposed of. There shall be no order as to costs.

Consequently, connected miscellaneous petitions are closed.

02.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No

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To

- 1.The District Registrar (Administration), Sivagangai District, Sivagangai.
- 2.The Sub-Registrar, Joint No.II, Sivagangai.



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C.V.KARTHIKEYAN, J.

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