



W.P.(MD)No.10705 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.12.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.10705 of 2021

and

W.M.P.(MD)Nos.8330 and 8331 of 2021

S.Rajendran

... Petitioner

vs.

1.The District Registrar (Registration),
Tiruneveli.

2.The Sub Registrar,
Valliyoar, Tiruneveli District.

3.S.Dhanushkodi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 1st respondent in his proceeding in File No.Pa.Mu.3070/A1/2020 dated 31.12.2020 confirming the order passed by the 2nd respondent dated 10.07.2020 and quash the same and consequently direct the 2nd respondent to register the petitioner's settlement deed dated 22.05.2020 executed in favour of his son namely Subramaniya Suresh and Dinesh in relating to the property situated at Survey No.854/2A, Periyakulampuravil,



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Thalapathisamuthiram Village Part I, Nanguneri Taluk, Tirunelveli District.

For Petitioner :Mr.V.Sasi Kumar
For R1 and R2 :Mr.R.Ragavendran
Government Advocate
For R3 :Mr.P.Santhana Krishnan

ORDER

The subject matter of challenge in this Writ Petition pertains to the impugned proceedings of the first respondent in No.Pa.Mu. 3070/A1/2020 dated 31.12.2020 and for a consequential direction to the second respondent to register the settlement deed, dated 22.05.2020, executed by the petitioner in favour of his son relating to the property situated at Survey No.854/2A, Periyakulamapuravil, Thalapathisamuthiram Village Part I, Nanguneri Taluk, Tirunelveli District.

2.Heard Mr.V.Sasi Kumar, learned Counsel appearing on behalf of the petitioner, Mr.R.Ragavendran, learned Government Advocate appearing on behalf of the respondents 1 and 2 and Mr.P.Santhana Krishnan, learned Counsel for the third respondent.



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3.The specific case of the petitioner is that originally S.No.854/2A along with other properties totally measuring an extent of 2 acres and 83 cents belonged to the grandfather of the petitioner. The petitioner's grandfather died intestate leaving behind the father of the petitioner and one Selvaraj Nadar, as his legal heirs. After the demise of his grandfather, there was an oral partition between his two sons. The properties to an extent of 86 cents in S.No.854/2A and 51 cents with respect to other survey numbers were allotted in favour of the father of the petitioner. Likewise, an extent of 1 acre and two cents was allotted in favour of the aforesaid Selvaraj Nadar in S.Nos.160/2, 141/2 and 151/2. Pursuant to the oral partition, mutation was carried out in the revenue records and insofar as S.No.854/2A is concerned, the patta stood in the name of the father of the petitioner. The father of the petitioner expired on 11.06.2014 leaving behind the petitioner and his mother Suganthiammal, as his legal heirs. The said Suganthiammal through a settlement deed, dated 12.11.2015, settled her share to an extent of 43 cents in favour of the petitioner and this document was registered as Doc.No.3194/2015. Pursuant to the same, the petitioner has obtained a



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separate patta bearing Patta No.1854 for an extent of 0-34.50 ares in S.No.854/2A.

4.The petitioner wanted to settle this property in favour of his son and hence, executed a settlement deed, dated 22.05.2020. When the same was presented for registration, an objection was given by the third respondent. Based on the objection, the second respondent through proceedings, dated 10.07.2020 refused to register the document and this was confirmed in the appeal by the first respondent through proceedings dated 31.12.2020. Aggrieved by the same, the present Writ Petition has been filed before this Court.

5.It must be borne in mind that the registering authority is a creature of statute and hence, the power and jurisdiction must be traceable to the statute. The statute in the present case is the Indian Registration Act, 1908, and the rules made thereunder. Rule 55 of the Registration Rules specifically provides for the grounds on which, the registration can be reused and the same is extracted hereunder:



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“55.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.”

6.In the instant case, the third respondent is claiming for a share in the subject property and accordingly, an objection was made before the second respondent. The objection that was raised by the third respondent will not fall under any of the categories enumerated supra. The objection is more in the nature of deciding the right and title over the subject property and such an exercise cannot be done by the second respondent. Hence, the impugned order passed by the second respondent refusing to register the document presented by the petitioner is unsustainable in law. As a result, the order passed by the first respondent confirming the order passed by the second respondent must also fall to the ground.



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7.In the light of the above discussions, the impugned proceedings of the first respondent in No.Pa.Mu.3070/A1/2020, dated 31.12.2020, confirming the order passed by the second respondent, dated 10.07.2020, are hereby quashed. The second respondent is directed to entertain the document presented by the petitioner for registration, if it is otherwise in order. If the third respondent is claiming any right or title over the subject property, it is left open to the third respondent to agitate the same before a competent civil Court and thereby, the right of the third respondent is safeguarded.

8.The Writ Petition is allowed in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

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

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To
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1.The District Registrar (Registration),
Tiruneveli.

2.The Sub Registrar,
Valliyoor, Tiruneveli District.



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N.ANAND VENKATESH, J.

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