



W.A.(MD)No.1472 of 2021 and C.M.P.(MD)No.10363
of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A.(MD)No.1472 of 2021

and

C.M.P.(MD)No.6031 of 2021

&

C.M.P.(MD)No.10363 of 2022

in

W.A.(MD)SR.No.68479 of 2022

W.A.(MD)No.1472 of 2021

A.Chellappa (died)

1.C.Gandhimathi

2.Rajeshwari

3.Vijaya

4.Aruna @ Krishnaveni

... Appellants / Respondents 4, 6 to 8

-Vs-

1.S.C.Balakrishnan

... 1st Respondent / Writ Petitioner

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2.The Sub Registrar,
Office of the Sub Registrar,
Registration Department,
Theni District.

3.The District Registrar,
Registration Department,
Periyakulam, Theni District

... Respondents 2 & 3 /

Respondents 1 & 2

4.Kanchana

... 4th Respondent / 5th Respondent

5.S.Vasagar

6.S.Vivekanandan

7.S.Muthu

8.S.Velmurugan

... Respondents 5 to 8

(R5 to R8 are impleaded vide Court order dated 29.11.2022 made in C.M.P.
(MD)No.7892 of 2021 in W.A.(MD)No.1472 of 2021)

PRAYER: Appeal filed under Clause 15 of Letters Patent, praying this Court to
set aside the order dated 07.07.2021 made in W.P.(MD)No.14409 of 2013 on the
file of this Court.

For Petitioner : Mr.V.Janakiramulu

For R1 : Mr.M.C.Swamy

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For R2 & R3 : Mr.N.Satheeshkumar,
Additional Government Pleader
For R4 : No Appearance
For R5 to R8 : Mr.S.Sivathilakar

C.M.P.(MD)No.10363 of 2022

1.Xavier

2.Rosali

... Petitioners / Appellants

-Vs-

1.S.C.Balakrishnan

2.The Sub Registrar,
Office of the Sub Registrar,
Registration Department,
Theni District.

3.The District Registrar,
Registration Department,
Periyakulam, Theni District.

A.Chellappa (died)



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4.C.Gandhimathi

5.Kanchana

6.Rajeshwari

7.Vijaya

8.Aruna @ Krishnaveni

... Respondents / Respondents

PRAYER in C.M.P.(MD)No.10363 of 2022: Petition filed under Section 151 of C.P.C., praying this Court to grant leave to the petitioners to file Writ Appeal challenging the order dated 07.07.2021 made in W.P.(MD)No.14409 of 2013 on the file of this Court.

PRAYER in W.A.(MD)SR.No.68479 of 2022: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 07.07.2021 made in W.P.(MD)No.14409 of 2013 on the file of this Court.

For Petitioners : Mr.J.Padhmaavathi Devi

For R1 : Mr.M.C.Swamy

For R2 & R3 : Mr.N.Satheeshkumar,

Additional Government Pleader

COMMON JUDGMENT

[Judgment of the Court was delivered by D.KRISHNAKUMAR, J.]

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

2.The brief case of the 1st respondent / writ petitioner is that the property in question originally belonged to one Bommaiya Gounder and all the revenue records stood in his name right from the year 1912 onwards. The said Bommaiya Gounder died in the year 1962 and the property devolved upon his legal heirs. The legal heirs of Bommaiya Gounder executed a sale deed in favour of the 1st respondent / writ petitioner on 29.03.2012 and when the same was presented for registration before the 2nd respondent herein, the 2nd respondent refused to register the same vide proceedings dated 18.05.2013 on the ground that there is a dispute with regard to the name of the father of Bommaiya Gounder and the same is not clear from the revenue records and further, objections were also received from the private respondents, who claim themselves to be entitled to the property in question. On appeal before the 3rd respondent herein, it was confirmed by the 3rd respondent vide proceedings dated

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27.05.2013.

3.Challenging the same, the 1st respondent / writ petitioner filed the Writ Petition with a consequential direction to the 2nd respondent to register the sale deed dated 29.03.2012 produced by the writ petitioner on 30.03.2012.

4.The Writ Court, considering the provisions contained in Tamil Nadu Patta Pass Book Act, 1983, allowed the Writ Petition, directing the 2nd respondent herein to register the sale deed dated 29.03.2012 presented by the petitioner within a period of two weeks.

5.Challenging the same, the respondents 4, 6 to 8 filed the Writ Appeal on the ground that the husband of the 1st appellant, namely, Chellappa, who is the 3rd respondent in the Writ Petition, filed a suit in O.S.No.6 of 2007 for permanent injunction from interfering with his peaceful possession against the 1st respondent / writ petitioner and his alleged vendors and obtained a decree



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dated 19.12.2007, which attained finality. The proposed vendors of the 1st respondent / writ petitioner till date have not filed any suit for declaration of title or set aside the registered sale deeds of the year 1983 and 1984 in favour of the 1st appellant / 4th respondent. The proposed vendors have no legal right or title over the property in question and the proposed purchaser / writ petitioner along with the proposed vendors have been restrained from encumbering the property in question purchased by the deceased husband of the 1st appellant in any manner, by the Civil Court decree dated 19.12.2007, which is also binding on the respondents 2 and 3 herein from not registering such documents presented by the writ petitioner and his proposed vendors. Therefore, the order of the Writ Court is liable to be quashed.

6.The learned counsel for the 1st respondent / writ petitioner contended before this Court that all the allegations of the writ petitioner and the grounds raised in the Writ Petition are agitated before the Civil Court and patta granted by the revenue authority has not been challenged before the appellate authority. When the genuineness of the execution of the sale deed in favour of the writ



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petitioner by the said Bommaiya Gounder is disputed, the Writ Court has rightly rejected the contention of the appellants. Therefore, the parties concerned can agitate their rights before the competent Civil Court.

7.The short point involved in the Writ Appeal for consideration is whether the appellants can file a Writ Appeal to decide the title of the property in question under Article 226 of Constitution of India.

8.The facts stated above clearly show that since the objections with regard to the title over the property in question were raised before the Sub Registrar / 2nd respondent, restraining from registering the documents submitted by the writ petitioner, the Sub Registrar / 2nd respondent refused to register the documents by citing the said objections.

9.At this juncture, it would appropriate to refer Rule 55 of the Tamil Nadu Registration Rules:-

“55.It forms no part of a registering officer’s duty to

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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 no 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.”

10.As per Rule 55 of the Tamil Nadu Registration Rules, if any forged document has been submitted for registration, it is always open to the authority concerned to conduct an enquiry. In the present case on hand, the appellants have not placed any records to show that the said document is forged one. It is also brought to the notice of this Court that a suit in O.S.No.90 of 2012 has been



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filed for declaration on the file of the District Munsif, Periyakulam and the same is still pending.

11.Considering the provisions as well as the facts with regard to the dispute over the title of the property in question, we are of the view that the parties concerned can seek their remedy before the competent Civil Court by adducing the oral and documentary evidence and if there is any forged document, they can seek their remedy before the District Registrar concerned under Section 77-A of the Tamil Nadu Registration Act, 1908.

12.In view of the above, as there is no illegality or irregularity in the order passed by the Writ Court, W.A.(MD)No.1472 of 2021 and C.M.P.(MD)No.10363 of 2022 stands dismissed. Consequently, W.A.(MD)SR.No.68479 of 2022 is also rejected at the SR stage itself. No costs. Consequently, connected C.M.P.(MD)No.6031 of 2021 is closed.

[D.K.K., J.] & [R.V., J.]

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06.02.2023

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

MYR

To

1.The Sub Registrar,
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