



WP(MD)No.13780 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.03.2023

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THE HONOURABLE MS.JUSTICE P.T.ASHA

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M.Narayanan

... Petitioner

Vs.

The Sub Registrar,
Kovilpatty,
Thoothukudi District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified mandamus calling for the records relating to the proceedings in impugned refusal check slip in RFL/Kovilpatty/16/2020 dated 17.03.2020 on the file of the respondent and quash the same with consequential direction to the respondent to register the petitioner's sale deed dated 17.03.2020.

For Petitioner : Mr.K.Chengiz Khan

For Respondent : Mr.T.Amjadkhan,
Government Advocate



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ORDER

The writ petition has been filed for a certiorarified mandamus to quash the refusal slip of the respondent in RFL/Kovilpatty/16/2020 dated 17.03.2020 and consequently direct the respondent to register the petitioner's sale deed dated 17.03.2020.

2. The facts are briefly set out herein under.

2.1. The property bearing Door Nos.113 and 114 of Ward No.15, Dhanuskodiyapuram New Street, Kovilpatti Town, Palayamkottai Registration District comprised in S.No.331/23pa measuring an extent of 1072 sq. ft., belongs to one T.Krishnan. The property was originally owned by one Lakshmi Amml, who had executed a settlement deed dated 03.04.1972 in favour of her daughter Subbuthai @ Ponnuthai Ammal. The said Subbuthai @ Ponnuthai Ammal had enjoyed the property without any interference till her life time and she had died on 28.05.1998 leaving behind her five daughters namely (1) Lakshmi, (2)



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Shenbagavalli, (3) Velthai, (4) Ramalakshmi and (5) Meena. The above daughters inherited the property and continued to possess and enjoy the same and they had got the revenue records mutated in their names. The five sisters had appointed the petitioner as their Power Agent to sell the property under deed dated 16.04.2004. As a Power Agent, the petitioner had sold the property to the said T.Krishnan, who had purchased it, after checking the veracity of the title, under registered sale deed dated 02.08.2012. The revenue records were also mutated in the name of T.Krishnan.

2.2. Thereafter, the petitioner herein decided to purchase the property from the said T.Krishnan and after negotiation, the sale deed came to be executed. The sale deed was presented for registration on 17.03.2020 before the respondent with the requisite fees and all other formalities. The respondent however refused to register the document stating that the petitioner's vendor did not have title as the earlier settlement deed which was referred to in the petitioner's sale deed had been cancelled by cancellation deed. The petitioner would submit that



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this cancellation deed is an unilateral one without notice to the SETTLEE. Therefore, the petitioner had come forward with the above writ petition.

3. Heard the learned counsels on either side.

4. The respondent had failed to appreciate that the unilateral cancellation of the settlement deed is contrary to the dicta of the full Bench of this Court in the case of *M/s.Latif Estate Line India Ltd. vs. Hadeeja Ammal and others* reported in 2011 (2) CTC 1. Further the settlement deed that has been cancelled is the one executed in favour of Subbuthai @ Ponnuthai Ammal by her mother Lakshmi Ammal way back in the year 1972. The cancellation is unilateral one without reference to the SETTLEE. Thereafter, it is seen that the SETTLEE namely Subbuthai @ Ponnuthai Ammal had passed away intestate on 28.05.1998. There appears to be no claim made to the property till her life time stating that the settlement deed had been cancelled. Since she had died intestate, her daughters have executed the Power of Attorney



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deed dated 16.04.2004 in favour of the petitioner and the petitioner in turn as a Power Agent has sold the property to one T.Krishnan on 02.08.2012. These documents have been registered and released by the respondent herein. It is only the present sale deed that is not being registered on the ground that there has been unilateral cancellation. The fact that from the year 1972, Subbuthai @ Ponnuthai Ammal, thereafter her daughters and then one T.Krishnan have been in possession and enjoyment of the property would itself prove that the cancellation has not been acted upon and the property continued to remain that of Subbuthai @ Ponnuthai Ammal. There is no objection to the registration of the sale deed in favour of the Power Agent or T.Krishnan. The respondent is bound by the provisions of Section 35 of the Registration Act to register the document. The Tamil Nadu Registration Rules also does not give any power to the respondent to refuse registration other than on the grounds provided therein.

5. In the light of the above discussion, the writ petition is allowed.

The impugned refusal slip of the respondent in RFL/Kovilpatty/16/2020



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dated 17.03.2020 is quashed. The respondent is directed to register the sale deed within a period of four weeks from the date of receipt of a copy of this order. It is needless to state that, if there is valid objection, the same shall be considered by the Sub Registrar, Kovilpatti, Thoothukudi District after hearing both sides and affording them a personal hearing. No costs.

31.03.2023

NCC:Yes/No

Index:Yes/No

Speaking/Non-speaking order

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To

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Kovilpatty,
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P.T.ASHA, J.

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