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W.A.(MD) No.1179 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.A.(MD) No.1179 of 2023
and
C.M.P.(MD) No.9032 of 2023**

M/s.Fresh Farms Enterprises LLP
represented by Authorized Signatory
No.22F/2-174, CHB Colony
West Street, Valaraigate
Tiruchengode Taluk
Namakkal District

... Appellant

-vs-

1.T.S.Nellainayagam

2.The District Registrar
Tirunelveli District
Tirunelveli

3.The Sub Registrar
Sub Registrar Office
Palayamkottai
Tirunelveli District

4.K.Mandramoorthi

... Respondents

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Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 06.06.2023, passed in W.P.(MD) No.8643 of 2020, on the file of this Court.

For Appellant : Mr.G.Prabhu Rajadurai
for Mr.M.Guruprasad

For Respondents : Mr.D.Sachi Kumar
Additional Government Pleader for R2 & R3

J U D G M E N T

[Judgment of the Court was made by S.S.SUNDAR, J.]

This writ appeal is directed against the order of the learned Single Judge, dated 06.06.2023, allowing the writ petition in W.P.(MD) No.8643 of 2020 filed by the first respondent.

2. The first respondent / writ petitioner claiming ownership over the land comprised in S.F.No.149/1, T.S.No.59/1, Block No.25, T.S.No.59/79, measuring an extent of 3 Acres and 5 Cents, of Palayam Chetikulam Village, Palayamkottai Taluk, Tirunelveli District, executed a family settlement deed, dated 25.11.2019, in favour of his son T.S.N.Ramasundaram, in respect of the said property. When the settlement deed was presented for registration, the



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Sub Registrar / third respondent refused to register the same, on the ground that a civil suit in O.S.No.139 of 2018 filed by the fourth respondent / a third party is pending on the file of the Sub Court, Tirunelveli.

3. The appellant is the purchaser from one of the persons, who claimed absolute right over the property, on basis of an oral partition. It is seen that the appellant's vendor and the first respondent are brothers claiming title through the common ancestor. On the basis of the oral partition, the appellant's vendor claimed exclusive title over the property and conveyed the same to the appellant. However, the first respondent, who claimed right over the property as a legal heir of the common ancestor, appears to have executed a settlement deed in favour of his son and presented the document for registration. The Sub Registrar refused to register the settlement deed presented by the first respondent citing pendency of a civil suit in O.S.No.139 of 2018, on the file of the Sub Court, Tirunelveli, filed by the fourth respondent / a third party. The reason so given by the Sub Registrar for refusing to register the document was held to be improper by the learned Single Judge in the writ petition filed by the first respondent and therefore, the order of the Sub Registrar refusing to register the document was



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set aside and the writ petition was allowed by the learned Single Judge. Aggrieved over the same, the present writ appeal is filed.

4. Admittedly, the appellant's vendor and the first respondent are the sons of one T.S.Siva Subramanian. The appellant's vendor executed a sale deed, on the basis of the oral partition in the family. Though the appellant's vendor claimed exclusive title to the property, the Sub Registrar cannot refuse to register the settlement executed by the first respondent in favour of his son, merely because the appellant or any third party in the transaction may dispute the title of the first respondent. The Sub Registrar cannot refuse to register a document citing a dispute relating to title of the property. There is no power vested with the Sub Registrar to dispute the title or entitlement of the executant of the document presented for registration or anyone objecting registration of such document. The scope of Rule 55 of the Registration Rules, 1949, has been examined by this Court in several cases. In such circumstances, this Court finds no merit in this writ appeal and is of the view that the learned Single Judge has rightly held that the Sub Registrar cannot refuse to register the document for the reasons stated and recorded in the order.



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5. Accordingly, this writ appeal fails and it is dismissed. However, this Judgment will not stand in the way of the appellant claiming his right or title over the property, in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.]

[D.B.C., J.]

26.07.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

1.The District Registrar,
Tirunelveli District,
Tirunelveli.

2.The Sub Registrar,
Sub Registrar Office,
Palayamkottai,
Tirunelveli District.



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