



W.A(MD)No.1609 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2023

CORAM:

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

W.A(MD)No.1609 of 2023
and
C.M.P(MD)No.12522 of 2023

The Sub Registrar,
Sub Registrar Office,
Parkit Managaram,
Palayamkottai,
Tirunelveli District.

... Appellant/2nd Respondent

Vs.

1.T.S.Nellainayagam

... 1st Respondent/Writ Petitioner

2.The District Registrar,
Tirunelveli District,
Tirunelveli.

3.K.Mandramoorthi

... Respondents 2 & 3/Respondents 1 & 3

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 06.06.2023 in W.P(MD)No.8643 of 2020.

For Appellant

: Mr.J.K.Jeyaselan

Government Advocate



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JUDGMENT

(Judgment of the Court was delivered by **D.BHARATHA CHAKRAVARTHY, J.**)

This writ appeal is directed against the order of the learned Single Judge, dated 06.06.2023 made in W.P(MD)No.8643 of 2020.

1.1 By the said order, the learned Single Judge allowed the writ petition filed by the first respondent herein, whereby, the first respondent had challenged the order of the appellant dated 10.01.2023 refusing to register the settlement deed and to consequently register the settlement deed executed by the first respondent in P/No.11 of 2019, dated 26.11.2019.

2. The brief facts are that the first respondent claims to be the owner of the land comprised in S.F.No.149/1 etc., in Palayam Chetikulam Village, Palayamkottai Taluk, Tirunelveli District. Therefore, in respect of his share in the said lands, the first respondent executed a settlement in favour of his son. However an objection by the third respondent stating that a civil suit in O.S.No.139 of 2018 is pending. By the order impugned in the writ petition, the appellant refused to register the said document holding that when partition has not been effected among the two brothers, the settlement deed cannot be executed in respect of the undivided extent.



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2.1 The learned Single Judge considered the case of the parties and held that the writ petitioner is only settling his undivided share in favour of his son and there is absolutely no ground for the appellant to refuse registration of the same and allowed the writ petition. Eventhough the contesting party has not filed any appeal, strangely the present appeal is filed by the Sub Registrar. The grounds raised in the writ appeal are that no settlement deed can be executed in respect of undivided property. Further, the Hon'ble Supreme Court of India in ***Thamma Venkata Subbamma (dead) by LR Vs. Thamma Rattamma and Others*** reported in **(1987) 3 SCC 294** had held that a coparcener has no power to gift his share.

2.2 Thus it can be seen that firstly when the aggrieved person who objected to the execution of the settlement deed has not chosen to prefer any appeal and the Sub Registrar has unnecessarily taken upon himself to file this appeal. There is no law which prohibits settlement of undivided share and therefore, the grounds raised in respect thereof are absolutely untenable. The judgment of the Hon'ble Supreme Court is rendered in the context that the father being the Kartha and coparcener cannot execute a gift deed without the consent of other coparceners. The same has absolutely no application whatsoever to the instant case.



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3. We hold that the appeal is not only without any merits but is vexatious and unnecessary. In view thereof, we are inclined to dismiss the writ appeal with costs. The said cost is payable only by the individual officer who took upon himself the decision to file the present appeal.

4. In the result,

(i) W.A.(MD)No.1609 of 2023 shall stand dismissed;

(ii) The concerned Officer, who is the Sub Registrar, Parkit Managaram, Palayamkottai, Tirunelveli shall from his funds pay a sum of Rs.20,000/- (Rupees Twenty Thousand only) to the credit of Current Account No. 7567821433, (IFSC Code: IDIBI000H040), in the Indian Bank, High Court Branch, Madurai Bench of Madras High Court, Madurai, towards Kalaingar Centenary Library, within a period of three weeks from the date of receipt of a copy of this order;

(iii) No costs.

(iv) Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]
29.09.2023

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

- 1.The Appellate Authority/Additional
Commissioner of Labour,
Under Payment of Gratuity Act 1972,
Madurai.
- 2.The Controlling Authority/Deputy Commissioner of
Labour,
Under Payment of Gratuity Act 1972,
Office of the Joint Commissioner of Labour,
Madurai-2.



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S.S.SUNDAR, J.

and

D.BHARATHA CHAKRAVARTHY, J.

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