



W.P.(MD)No.20453 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.11.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.20453 of 2021

R.Balayi

... Petitioner

Vs

1.The Inspector General of Registration,
Registration Department,
No.100, Santhome High Road,
Chennai-600 028.

2.The District Registrar (Administration),
Registration Department,
Madurai South,
Madurai District

3.The Sub-Registrar,
Madurai South,
Palace Road,
Madurai.

4.Pandiyammal

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the Respondents 1 to 3 to conduct the proper enquiry for cancelling the document in Document Nos.2721/2002 and 10077/2008 on the file of the 3rd Respondent basis of the petitioner's representation dated 15-09-2021 within a stipulated time fixed by this Court.



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For Petitioner : Mr.R.Sundar

For R-1 to R-3 : Ms.D.Farjana Ghoushia,
Special Government Pleader

For R-4 : Mr.V.Janakiramalu

ORDER

This Writ Petition has been filed for the issue of writ of mandamus directing respondent Nos.1 to 3 to conduct the enquiry based on the representation made by the petitioner on 15.09.2021, wherein, the petitioner has sought for the cancellation of the documents in Document Nos.2721 of 2002 and 10077 of 2008.

2. The grievance of the petitioner is that her parents had seven children and there were various properties belonging to both her father and mother. These properties are said to have been dealt with by the brothers along with the fourth respondent, who is the sister-in-law of the petitioner, without informing the sisters and their share was also dealt with. Therefore, the petitioner had given a complaint before the District Registrar to cancel the documents. Since the same was not acted upon, the present Writ Petition has been filed before this Court.



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3. The third respondent has filed a counter affidavit and has taken the following stand:

“3. At the outset it is submitted that in line with the instructions contained in the Circulars issued by the respondent in No.41530/U1/2017 dated 08.11.2017 and dated 31.07.2018, the second respondent District Registrar Madurai South who held already received the petitioner's representation dated 07.09.2023 addressed to him to cancel the registered document Nos.2721/2002 and 7257/2008 had disposed of her representation vide his proceedings No.5696/B2/2021 dated 28.01.2022. While the stated representation 07.09.2021 petitioner was under consideration of second respondent, petitioner's representation dated 15.09.2021 was also received by him. The properties dealt with in the above representation are one and the same and the prayer was to cancel registered document in respect of the above properties. Hence the second representation clubbed the second representation dated 15.09.2021 in the same file in currency for the one dated 07.09.2021 Thus his final order passed in proceedings No.5696/B2/2021 dated 28.01.2021



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for both the representation dated one dated 07.09.2021 and dated 15.09.2021 of the petitioner.”

4. It is also brought to the notice of this Court by the learned counsel for the fourth respondent that one of the brother viz., Durai has already filed a suit for partition before the Sub Court, Thirumangalam in O.S.No.58 of 2022 and this suit is pending. It was further submitted that the petitioner has been added as the seventh defendant in the suit.

5. Heard the learned counsel on either side.

6. In the considered view of the Court, the petitioner has to necessarily work out her remedy by claiming her share in the properties belonging to her father and mother. There is no use in raising a dispute before the District Registrar as against the sale deeds which were registered in the years 2002 and 2008 respectively. Ultimately, the crux of the issue involved is that the share of the petitioner has also been dealt with without the knowledge of the petitioner and that has already been sold. Therefore, to that extent, the petitioner claims that those sale deeds



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will not bind the petitioner. Hence, the petitioner has to seek for her share in the properties and once that is done, the same will be decided by a competent Civil Court. A suit has already been instituted in O.S.No.58 of 2022 and even in this suit, the petitioner can make a counter claim by claiming her share in the property. This is more so since the representation made by the petitioner has already been dealt with by the District Registrar and orders have been passed through proceedings dated 28.01.2021. Except giving this liberty to the petitioner, no further orders can be passed in this Writ Petition.

7. This Writ Petition is disposed of in the above terms. No costs.

16.11.2023

NCC:yes/no

Index:yes/no

Internet:yes/no

tsg

To

1.The Inspector General of Registration,
Registration Department,
No.100, Santhome High Road,
Chennai-600 028.

2.The District Registrar (Administration),
Registration Department,
Madurai South, Madurai District



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tsg

3.The Sub-Registrar,
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