



W.P(MD)No.18283 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.18283 of 2015

Peri. Rajendran,

... Petitioner

Vs

1.The Sub Registrar,
Office of the Sub Registrar,
Singampunari,
Sivagangai District.

2.Chandran

3.Ramesh

4.The District Registrar,
Sivagangai

...Respondents

(R2 and R3 Impleaded Vide Court Order Dated 13.2.2020 in WMP(MD)No. 2032/2020 in WP(MD) No.18283 of 2015 by SSSRJ)

(R4 is suo motu impleaded Vide Court Order Dated 07.11.2023 by BPJ)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to receive and register the settlement deed dated 01.10.2015 executed by the petitioner in favour of the petitioner's



W.P(MD)No.18283 of 2015

son in respect of his property situated in Survey No.174/1A1 and 174/2, at South Singampunari Village, Tiruppathur Taluk, Sivagangai District.

For Petitioner : Mr.R.Anand
For R1 : Mr.M.Sarangan
Additional Government Pleader
For R2 & R3 : Mr.A.B.Jeeva

ORDER

This writ petition is filed in the year 2015 for the relief of mandamus directing the Sub Registrar, Singampunari to receive the settlement deed, dated 01.10.2015 executed by the petitioner in favour of his son in respect of his property in S.No.174/1A and 174/2, South Singampunari Village, Tiruppathur Taluk, Sivagangai District.

2.The case of the petitioner is that the properties in S.No.174/1A1 and 174/2, South Singampunari Village, Tiruppathur Taluk are his ancestral properties and patta also stands in his name. The petitioner claims that he has constructed a house in the above property and obtained an electricity service connection. He is paying the electricity charges, water charges and house tax. While so, the



W.P(MD)No.18283 of 2015

second respondent has executed a Gift deed in favour of the third respondent before the first respondent on 14.01.2011 and the same was registered as Document No.58/2011 by the first respondent without ascertaining whether the second respondent is having any valid title over the property. After registering the document No. 58/2011, the third respondent has also filed a writ petition before this Court in WP(MD) No.2459 of 2012 to transfer the patta in his name. This Court has also disposed of that writ petition with a direction to the Revenue Divisional Officer to conduct an enquiry and to pass an order on his application within a stipulated time. Accordingly, the Revenue Divisional officer has conducted an enquiry and by way of his proceedings in Mu.Mu.A1/3950/2015 dated 12.08.2015 has rejected the claim of the third respondent for grant of patta. Thereafter, the petitioner has submitted a document for registration of a settlement deed, dated 01.10.2015 in favour of his son, which was rejected by referring the document, which was already registered on the subject property in Document No.58/2011. Therefore, the petitioner is before this Court for a Mandamus, to



W.P(MD)No.18283 of 2015

direct the respondent to register the settlement deed, dated 01.10.2015.

3.The learned counsel appearing for the petitioner submits that the subject property is the petitioner's ancestral property and as on date the patta stands in his name. He has put up a construction, obtained an electricity service connection and paying house tax, electricity service connection for the past two decades, thereby, he is having all the records in his favour. However, the document which has been executed by the second respondent on the subject property in favour of the third respondent in the year 2011 was registered by the first respondent as Document No.58/2011. While registering the document, the first respondent has failed to ascertain the valid title over the property. The third respondent has submitted an application for change of patta in his name and filed a writ petition before this Court. On the directions issued by this Court in WP(MD) No. 2659 of 2012, dated 17.06.2014, an enquiry was conducted by the Revenue Divisional Officer and the Revenue



W.P(MD)No.18283 of 2015

Divisional Officer has passed an order rejecting the request of the third respondent. The third respondent has not challenged that order and it becomes final. Since the third respondent is not having any title over the property and the same was considered by the Revenue Divisional Officer and the request of the third respondent was rightly rejected. The third respondent has not preferred any appeal against the order of the Revenue Divisional Officer. Therefore, the learned counsel prays this Court that a suitable direction may be issued to the registering authority to register the document presented by the petitioner.

4.The third respondent has not filed any counter affidavit to this writ petition. Now, the learned counsel for the third respondent claims that the third respondent has filed a civil suit. However, he is not having any details of the civil suit.

5.This Court considered the rival submissions made and also perused the materials placed on record.



W.P(MD)No.18283 of 2015

WEB COPY

6.The petitioner claims that the subject property is his ancestral property and he is in occupation of the property, wherein, he put up a construction and he is paying electricity service charges, house tax etc., Patta for the subject property also stands in the name of the petitioner. While so, a document has been registered on the subject property in the year 2011 by the second respondent in favour of the third respondent/ his son. Based on the document of the year 2011, the third respondent has filed a writ petition for change of patta in his name and on the directions of this Court, the Revenue Divisional Officer has conducted an enquiry and rejected the claim of the third respondent. It appears that the third respondent has failed to appear before the Revenue Divisional Officer and the order of the Revenue Divisional Officer, rejecting the request of the third respondent has become final.

7.This Court has issued a notice to the respondents 2 and 3 on 13.02.2020 and ordered for a fresh notice on 18.10.2023.



W.P(MD)No.18283 of 2015

Though the private respondents have received the notice in this writ petition, they have not filed any counter affidavit to substantiate their case and the right over the subject property. Now, the third respondent is claiming that a civil suit has been filed. However, he is not in a position to provide the details with regard to the suit said to have been filed. It is to be noted that the order of the Revenue Divisional Officer has not been challenged by the third respondent and it becomes final. By referring the document which has been registered in the year 2011 without any title, it is not proper on the part of the first respondent to refuse to register the document presented by the petitioner.

8.Considering the peculiar circumstances of this case, this Court *suo motu* impleads the District Registrar, Sivagangai as a party to this writ petition. The District Registrar, Sivagangai is directed to conduct an enquiry under Section 77 A of the Registration Act,1908 and find out on what basis the document No. 58/2011, dated 14.01.2011 was registered and to take a decision on



W.P(MD)No.18283 of 2015

the settlement deed, dated 01.10.2015 presented by the petitioner within a period of six months from the date of receipt of a copy of this order after providing an opportunity of hearing to the petitioner as well as to the second and third respondents. The District Registrar, Sivagangai shall treat this case as a special case and shall decide the issue.

9. With the above directions, this writ petition is disposed of. No costs.

07.11.2023

Index: Yes
Internet: Yes
vrn



W.P(MD)No.18283 of 2015

To

WEB COPY

- 1.The District Registrar,
Sivagangai
- 2.The Sub Registrar,
Office of the Sub Registrar,
Singampunari,
Sivagangai District.



WEB COPY



W.P(MD)No.18283 of 2015

B.PUGALENDHI, J.

vrn

Order made in
W.P(MD)No.18283 of 2015

07.11.2023