



W.P(MD)No.118 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.118 of 2022

and

W.M.P(MD)No.94 of 2022

- 1.Savariammal
- 2.S.Irudhayam
- 3.A.Sebastiammal
- 4.S.Annamary
- 5.A.Anthoniammal
- 6.S.Xavier

... Petitioners

Vs.

- 1.The District Registrar
Registration Department,
Trichirapalli.
- 2.The Sub-Registrar
Joint I Sub-Registrar Office,
Tiruchirapalli.

... Respondents



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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records in the office of the second respondent in RFL/Joint I SRO Trichy/262/2021 quash the same and consequently direct the respondents to register the document presented for registration.

For Petitioners : Mr.P.Parthiban

For Respondents : Mr.M.Prakash

Additional Government Pleader

ORDER

The writ petition has been filed in the nature of a Certiorarified Mandamus with respect to the records relating to RFL/Joint I SRO Trichy/262/2021 of the second respondent Sub Registrar Joint (I) Sub Registrar Office, Trichy and to quash the same and to direct the said Respondent to register the document presented by the petitioner herein for registration.

2. There were two brothers Arputham and Samymuthu and they were the joint owners of the lands in Survey Nos.402 /5 and 403/5 measuring 0.82¼ cents and 0.59¼ cents respectively, totally measuring



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1.41½ cents. Their names had been entered in the 'A' Settlement Register in the year 1994 itself. They had both been given joint patta bearing No.1579. It is stated that in the affidavit that Samymuthu died on 11.03.2001. The petitioners are his legal heirs. The petitioners became entitled to ½ undivided share in the aforementioned lands. They had taken a decision to convey the said undivided to ½ lands to one Pitchai, for consideration. When they presented the sale deed for registration, it was refused to be registered by the second respondent claiming that there was an other entry in the Encumbrance Certificate and therefore clarification was sought.

3. The second respondent had placed reliance on a circular No.18223/C1/2013-3 dated 08.11.2013 issued by the first respondent. The first respondent has given directions that if the name as presented in the document and as verified from the encumbrance certificate are different, then necessary explanation must be sought by those who present the documents for registration, and it must be also stated in the particular document as to the reasons for the difference in the names and thereafter, an enquiry will have to be conducted and only then, the



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document should be registered. Placing reliance on the said circular, the second respondent has refused to register the document and had therefore, issued a check slip.

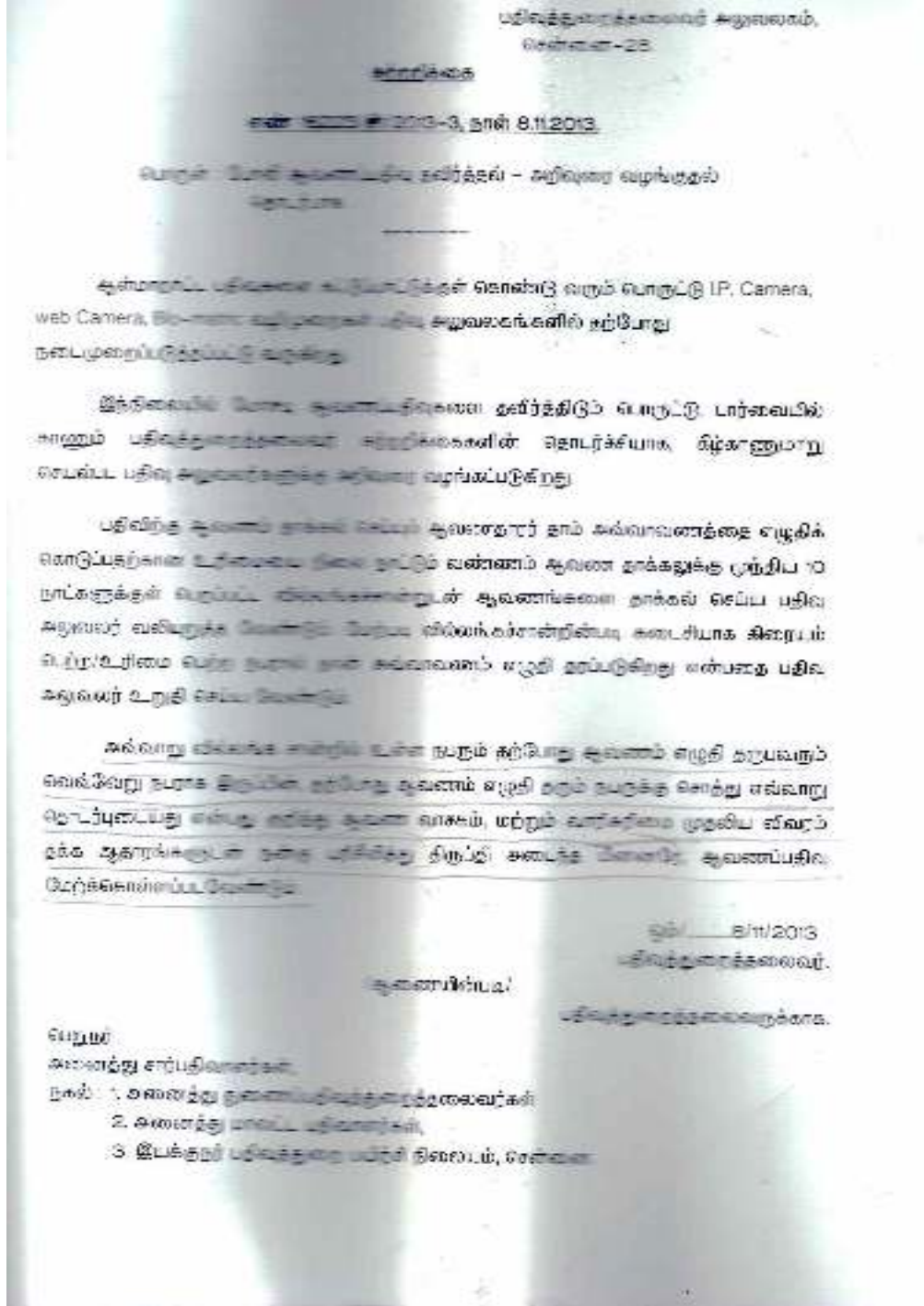
4. The learned counsel for the petitioners however, took the Court through the entries in the 'A' register and also through the joint patta issued to Samymuthu and Arputham. It is stated that the petitioners are the legal heirs of Samymuthu and have an existing undivided ½ share in aforementioned lands. It is stated that the earlier document which is pointed out by the second respondent is not concerned with the petitioners herein and they have also stated in the sale deed how the lands devolved to them and had also produced supporting documents, like 'A' register extract and also the joint patta.

5. The learned Additional Government Pleader, however, placed reliance on the circular and stated that the second respondent had examined the encumbrance certificate and had found that the name found in the encumbrance certificate was different from the names found in the document presented for registration and therefore, the document was



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refused to be registered. The circular issued by the first respondent is extracted below :





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6. It is seen from the aforementioned portion that if at all there is a difference in the names as found in the encumbrance certificate and in the document presented for registration, then the Sub Registrar, has every right to seek for explanation and also to insist that the reasons for the difference in the names be stated in the document itself. After that an enquiry will have to be conducted.

7. The learned counsel for the petitioners pointed out that in the sale deed presented for registration, the flow of title had been clearly stated.

8. However, there is a requirement for the second respondent to enquire into all these aspects. Therefore, the order which is now impugned is set aside and a direction is given to the second respondent to consider the covenants in the sale deed presented and also the extract of the 'A' register and also the joint patta and if required, invite the petitioners for enquiry, record their statement and if satisfied, proceed to register the document, presented for registration. The said



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exercise may be completed within a period of 8 weeks from the date of receipt of a copy of this order.

9. Accordingly, the writ petition stands allowed. The order impugned is set aside. The matter is remitted back for fresh consideration. No costs. Consequently, connected miscellaneous petition is closed.

07.03.2023

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

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C.V.KARTHIKEYAN, J.

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