



W.P.(MD)No.18275 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.01.2023

CORAM

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.(MD)No.18275 of 2016
and
W.M.P.(MD).No.13166 of 2016

M.Saraswathi

... Petitioner

Vs.

The Joint Sub Registrar No.1,
District Registrar Office,
Tuticorin

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 2nd respondent dated 28.04.2015 in Na.Ka.No.2286/mggp/2015 and quash the same and consequently direct the respondent to consider the representation of the petitioner dated 27.04.2015.

For Petitioner :Mr.G.Mohan Kumar

For Respondent :Mr.M.Ramesh
Government Advocate



W.P.(MD)No.18275 of 2016

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ORDER

This writ petition has been filed seeking for a Writ of Certiorarified Mandamus to quash the order of the respondent refusing to record in encumbrance certificate, Will executed by the petitioner's husband at the office of the Sub Registrar, Rajagambiram dated 12.08.2014 in the encumbrance certificate to be issued arising out of the settlement deed registered as document No.1977 of 2012, on the file of the respondent and directing the petitioner to approach the civil Court.

2.The learned counsel for the petitioner would submit that while the husband of the petitioner was ill and taking advantage of the same, the younger son of the petitioner had mislead the husband of the petitioner and had executed a deed settling his father's property in his name. When the husband of the petitioner came to know such an execution of settlement deed, he had executed a cancellation of settlement deed and also a will giving the property in equal proposition to both his sons. The said will was sought to be reflected in the encumbrance certificate, in respect of various properties. In the interregnum, the younger son had also executed a



W.P.(MD)No.18275 of 2016

settlement deed in favour of his wife Thirumathi Selvam. The said Thirumathi Selvam had filed a suit in O.S.No.149 of 2014, seeking for a declaration to declare the cancellation of deed unilaterally executed by the petitioner in document No.2509 of 2013, on the file of the respondent herein and for further reliefs. The petitioner was also arrayed as the 3rd respondent in the said suit. After contest of the suit, a judgement and decree had been passed rejecting the claim of declaration. Hence, the cancellation deed executed by the petitioner's husband has been held to be valid. The said judgement and decree has also been registered with the office of the Sub Registrar. In view of the subsequent development, he would submit that no further adjudication is required to be passed in this writ petition.

3.Recording the same, this present Writ Petition stands closed. There shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.

11.01.2023

Index : Yes / No
Speaking Order/Non Speaking Order
sbm

Page 3 of 5



W.P.(MD)No.18275 of 2016

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To

The Joint Sub Registrar No.1,
District Registrar Office,
Tuticorin



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W.P.(MD)No.18275 of 2016

K.KUMARESH BABU, J.

sbn

W.P.(MD)No.18275 of 2016
and
W.M.P.(MD).No.13166 of 2016

11.01.2023