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W.A.(MD) No.1432 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.09.2023

CORAM:

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

**W.A.(MD) No.1432 of 2023
and
C.M.P.(MD) No.11085 of 2023**

S.Muthusamy

... Appellant

-vs-

1.Mariyamuthu

2.The Sub Registrar
Thirumayam Sub Registrar Office
Pudukottai District

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 26.08.2022, passed in W.P.(MD) No.13316 of 2021, on the file of this Court.

For Appellant : Mr.S.Krishnan

For Respondents : Mr.A.Mohan for R1
Mr.D.Sachi Kumar
Additional Government Pleader for R2



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J U D G M E N T

[Judgment of the Court was made by S.S.SUNDAR, J.]

This writ appeal is directed against the order of the learned Single Judge, dated 26.08.2022, passed in W.P.(MD) No.13316 of 2021 filed by the first respondent for issuance of a writ of certiorarified mandamus to quash the order dated 20.07.2021, passed by the Sub Registrar / second respondent herein refusing to register the sale deed presented by him for registration.

2. The brief facts, which are necessary for disposal of this writ appeal, are as follows:

2.1. The appellant admits that the property in dispute originally belonged to one Ganesan. It is stated by the appellant that the said Ganesan executed a power of attorney in favour of one Sakthi. The appellant and one Solai appear to have entered into a sale agreement with the said Ganesan, through his power agent Sakthi, on 06.09.2017 and it was registered as document No.1548 of 2017, on the file of the second respondent – Sub Registrar.



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2.2. Learned counsel for the appellant now admits that the said Ganesan, who executed the sale agreement in favour of the appellant, is not the real owner and somebody else is the owner of the property in dispute. According to the appellant, the person, who executed the sale agreement with him, is a person, who used the name of the real owner to take money from the appellant.

2.3. It appears that the legal heirs of the real owner of the property in dispute, by name, Ganesan, had filed a suit for declaration of title and therefore, the appellant not pressed for enforcement of the sale agreement, which he had entered into with another Ganesan, who had no title to the property.

2.4. Now, the appellant states that the person, who executed the sale agreement, is no more and his legal heirs have, without notice to anyone, executed another sale



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deed in favour of the first respondent / a stranger. When the first respondent presented the document before the Sub Registrar / second respondent for registration, he refused to register the document, on the ground that there was a prior agreement of sale entered into with the appellant.

2.5. Challenging the said order passed by the Sub Registrar, the first respondent filed W.P.(MD) No.13316 of 2021 and the learned Single Judge, by order dated 26.08.2022, following the Judgment of this Court in the case of ***N.Ramayee vs. Sub Registrar***, reported in **2020 (6) CTC 697**, allowed the writ petition. Aggrieved by the same, the appellant has filed the present writ appeal.

3. Learned counsel for the appellant submits that the person, who executed the sale agreement in favour of the appellant, is not the real owner and the title to the property in dispute had already been decided in a suit filed by the legal heirs of the real owner, whose name is also Ganesan. In such circumstances, the appellant himself admits that the person, who executed



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the sale agreement in his favour, is not the real owner of the property. Therefore, the appellant now admits that he has no subsisting right in the property in respect of which he entered into the sale agreement with one Ganesan. It is the case of the appellant that the person, who has now executed a sale deed, has no right or title to the property, as the title to the property has been decided against him and therefore, he cannot deal with the property.

4. This Court is unable to accept the argument of the appellant on two grounds. Firstly, the appellant has no right or title to the property and therefore, he cannot be a person aggrieved by the subsequent transaction. Secondly, the Sub Registrar has no power to decide one's title. Therefore, even the real owner of the property cannot raise an issue about the registration of document before the Sub Registrar as this Court has consistently held that the power of the Sub Registrar is confined to identity of the parties and not to decide the title. In other words, it is not within the domain of the Sub Registrar to decide whether a person has title or not.



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5. The appellant, who alleges that he lost his very good money by entering into a sale agreement, may approach the Civil Court for recovery of money or for compensation from the legal heirs of the person, who executed the sale agreement and received sale consideration.

6. With such liberty preserved to the appellant, this writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.]

[D.B.C., J.]

07.09.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:
The Sub Registrar,
Thirumayam Sub Registrar Office,
Pudukottai District.



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