



W.P(MD)No.28328 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.28328 of 2022

G.Gokila

... Petitioner

Vs.

1.The Inspector General of Registration,
Registration Department,
Santhome, Chennai.

2.The District Collector,
Tiruchirappalli,
Tiruchirappalli District.

3.The District Registrar (Administration),
Trichy District.

4.The Special Deputy Collector (Stamps),
Trichy District.

5.The Sub Registrar,
Srirangam,
Trichy District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent No.5 to accept the document for registration to be submitted by the petitioner with regard to the property in S.No.38/5 in Thalakudi Village, Lalgudi Taluk, Trichy District by considering the petitioner representation dated 20.10.2022.



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For Petitioner : Mr.K.Dinesh

For Respondents : Mr.S.Shanmugavel,
Addl. Government Pleader.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner presented the petition mentioned sale deed for registration before the fifth respondent. The fifth respondent declined to receive the same. That led to the filling of this writ petition.

3.The learned Additional Government Pleader for the respondents submitted that the petitioner traces her title on the basis of the sale deed dated 30.03.1997 executed in her favour by one Kannan. The document was registered on the file of the Sub Registrar Office, Parassala, Kerala. He draws my attention to the amendment made vide Tamilnadu Act No.19 of 1997 with effect from 29.03.1997. The amended Section 28 of the Registration Act, reads as follows:-

“28. Place for registering documents relating to land.—Save as in this Part otherwise provided,—



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(a) every document mentioned in clauses (a), (b), (c), (d), (e), (f), (g), (h) and (i) of sub-section (1) and sub-section (2) of section 17 in so far as such document affects immovable property and in clauses (a), (b), (c) and (cc) of section 18 shall be presented for registration in the office of a Sub-Registrar within whose sub-district the whole or some portion of the property to which such document relates is situate in the Union Territory of Pondicherry; and

[Provided that ever document mentioned in clause (h) of sub-section (1) of section 17 may also be presented for registration in the office of the Sub-Registrar within whose jurisdiction the principal ordinarily resides; and

(b) any document registered outside the Union Territory of Pondicherry in contravention of the provisions of clause (a) shall be deemed to be null and void.”

4.The title deed in favour of the writ petitioner was registered one day after the said amendment came into force. As per Section 28(b) of the Registration Act, the said document should be deemed as null and void. On the strength of such a document, the petitioner cannot be allowed to make further alienations. If the sale deed presented by the petitioner is registered, that would amount to frustrating the object for which the amendment was made. He points out that before the same Amendment was brought in, in order to evade payment of property stamp duty, such documents were registered in Kerala. In order to protect the revenue interest of Tamilnadu, the said amendment was brought in.



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In order to uphold the sanctity of the same amendment, he wants this Court to dismiss the present writ petition.

5.I carefully considered the rival contentions and went through the materials on record. No doubt, the contentions advanced by the learned Additional Government Pleader are attractive and sound. However, I cannot lose sight of the facts obtaining on hand. It is true that the title deed standing in the name of the petitioner must be considered as null and void. However, the fact remains that the petitioner has been in possession of the subject property which is a house for the last 25 years. She has perfected her title by long possession and user. There is no rival claim from any third party. The revenue records are in her favour. Hence, the petitioner's right to deal with the property cannot be questioned. The petitioner is therefore permitted to execute a fresh sale deed in respect of the petition mentioned property and present the same for registration before the fifth respondent. The petitioner will not make any reference to the sale deed dated 30.03.1997. The petitioner will have to trace her title independently. The petitioner has to produce original revenue record before the registering authority. If the registering authority is satisfied that the other formalities have been fulfilled, such document will be entertained registered and released.



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6.The writ petition is allowed on these terms. No costs.

24.01.2023

NCS : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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