



WEB COPY



W.P. No.9551 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P. No.9551 of 2024

Nurselvi

. . Petitioner

Vs

1.Government of Union Territory of Puducherry
Represented by its Chief Secretary
Goubert Avenue
Puducherry - 605 001

2.The District Registrar
Registration Department
Puducherry

3.Sub-Registrar
Villianur
Puducherry - 605 110

. . Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus to direct the third respondent to receive the Gift Deed dated 14.02.2024 executed by me in favour of the Commissioner, Villianur Commune Panchayat and register the same in accordance with the provisions of the Registration Act, 1908 in the light of the law laid down by



W.P. No.9551 of 2024

this Hon'ble Court in *N.Ramayee v. Sub Registrar, Registration Department and Another*, 2020 SCC Online Mad 5231.

For Petitioner : Mr.Sharath Chandran &
Gopika Nambiar

For Respondents : Mr.M.Nirmal Kumar,
Govt. Advocate (Pondy)
for R1 to R3
Mr.S.T.Bharath Gowtham
(for proposed respondent
Razialikhan)
Mr.M.Ramamoorthy
(for proposed respondents
Rajinish Kumar Rai and
R.Mathiazhagan

ORDER

This writ petition has been filed for a writ of mandamus directing the respondents 1 to 3 to register the gift deed dated 14.02.20204 executed by the petitioner in favour of the Commissioner, Villianur Commune Panchayat.

2. It is the case of the petitioner that the property was originally purchased by one Abdul Aziz Khan on 20.01.2014. Sale certificate was also issued in his favour on 29.09.1917 by the French Court of First Instance. On



W.P. No.9551 of 2024

04.11.1942, Abdul Aziz Khan died. His son and legal heir, one Crochild Jehnan

Khan @ Crochild Jehan Pacha also died on 05.05.1970 and his wife

Ms.Chousia Begum died on 29.03.1977, leaving behind them Mir Sultan

Mohidine and Ms.Saadattunisa Begum as their legal heirs. Patta also changed

in their names. The petitioner has purchased the property on 16.06.2017 and it

is also stated that, while registering the property, protest petitions were filed by

third parties who also appeared before this court. They also filed a criminal

original petition in Crl.O.P. No.14713 of 2017 to take action against the

Registrar for registering the property in favour of the petitioner. That criminal

original petition was dismissed with cost of Rs.10,000/-. Thereafter, patta was

also changed in the name of the petitioner. A suit is also filed in O.S. No.1554

of 2017 before the I Additional District Munsif Court for an injunction against

one Mathiazhagan and Rajinish Kumar, the protest petitioners.

3. It is also the case of the writ petitioner that the so called settlement deeds and the sale deeds relied upon by Mathiazhagan and Rajinish Kumar were also cancelled by the District Registrar on the basis of falsification of records. The petitioner has obtained approval from the planning authority on 17.02.2023 to form a lay out. Thereafter, she also executed a gift deed dated



W.P. No.9551 of 2024

27.06.2023 in favour of the Commissioner, Villianur Commune Panchayat in respect of OSR land and the road portion. However, the same has not been registered on the ground that a protest petition has been received despite the report submitted by the District Registrar to the Deputy Collector to the Pondicherry Planning Authority indicating that the petitioner's title deed is valid. As the validity of the gift deed executed on 27.06.2023 has expired, a new gift deed was executed on 14.02.2024. When the same was presented for registration, the same has not been registered on the ground that there were protest petitions filed.

4. A counter has been filed by the second respondent/District Registrar, Puducherry to the effect that there are nine protest entries in respect of R.S. No.154/2, in the portal of Registration Department, on various grounds requesting not to register any document in respect of the lands located in the aforementioned R.S. Numbers. However, only 6 protest petitions are readily available. Out of the six protest petitions available on hand, petitioner Razalikhan had withdrawn his petition later. One Thiru.M.Ilango, Thanthai Periyar Dravidar Kazhagam, Puducherry has submitted a complaint/representation to various authorities raising allegations about the role



W.P. No.9551 of 2024

of the then District Registrar. However, the District Registrar has also held that the validity of the document has to be examined only by the civil court and not by the District Registrar. In the nutshell, it is the contention that as per Rule 54 and 55 of the Pondicherry Registration Rules, 1969, an enquiry could be conducted by the Registrar. Therefore, in view of the protest petitions already filed, the document could not be registered.

5. Two of the protest petitioners, namely Rajinish Kumar Rai and R.Mathiazhagan appeared through a lawyer Mr.M.Ramamoorthy and filed an affidavit to the effect of challenging the title of the petitioner and one Mr.Razalikhan, the other protest petitioner who had earlier filed protest petition before the Registrar and subsequently withdrawn has engaged a lawyer before this court. His contention before this court is to the effect that he is also one of the sharers and he has filed a suit for partition. Therefore his interest is also to be protected. Whereas the learned counsel appearing for the other protest petitioners, namely Rajinish Kumar Rai and R.Mathiazhagan submitted that the title in favour of the petitioner is not valid and therefore, they gave a protest petition.



W.P. No.9551 of 2024

6. The learned counsel appearing for the writ petitioner has brought to the notice of this court the fact that the protest petitioners entered a compromise in O.S. No.154 of 2017 filed against Rajinish Kumar Rai and Mathiazhagan. The said Rajinish Kumar Rai and R.Mathiazhagan have entered into a compromise memo with the petitioner. In this regard he has also given evidence before the court wherein he has also admitted receipt of the cheque paid by the petitioner. Based on the said compromise memo, the suit was also decreed in favour of the petitioner by a decree and judgment dated 20.01.2023. As the very same parties are now making a hue and cry before this court regarding the admitted title of the petitioner. The same persons have already filed a criminal original petition before this court in CrI.O.P. No.14713 of 2017, to take action against the Sub Registrar for registering the document. The said OP was also rejected with imposition of cost.

7. The other protest petitioners appeared through their counsel before this court claimed to be a sharer have also withdrawn the protest petition as per the counter filed by the second respondent. Once the parties have appeared before a civil court and gave evidence admitting the title of the petitioner, now they are estopped from raising the same question before the writ court, particularly



W.P. No.9551 of 2024

when the compromise decree is still in force. That apart, the documents filed on the side of the petitioner right from the year 1914 till the petitioner purchased the property in the year 2017 clearly indicates that the petitioner traces title from the year 1914, which has also been upheld by the civil court. Patta and revenue records also changed in the name of the petitioner. Therefore, at this stage, when the so called objectors without making any challenge to the sale deed of the year 2017 now merely on the basis of some allegations presented petitions before the Registrar to stall the registration.

8. No doubt, Rule 54 of the Pondicherry Registration Rules, 1969 empowers the Registering officer to enquire about the linkage of the executants with reference to the registered holder in the revenue records or court order, if any. It is relevant to note that all the parent documents have been placed before the Registrar, when the court has also granted decree in favour of the petitioner and the protest petitioners have also admitted in the civil court and entered into a compromise, still not registering the document merely on the basis of the protest petitions repeatedly received indicate that the Sub Registrar also colluded with the parties. When the title of the petitioner is approved by the court and presented before the Registrar, citing Rules 54 and 55, the Registrar



W.P. No.9551 of 2024

cannot enquire as an appellate authority of the civil court. In such view of the matter, the second respondent, namely the District Registrar, Registration Department, Puducherry, is directed to register the document within a period of seven days from the date of receipt of a copy of this order. Since the learned counsel on the side of the impleading parties have been heard, the impleading petition is not numbered.

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

26.04.2024

Index : Yes/No

Speaking/non speaking order

Neutral Citation : Yes/No

Asr

To

1. Government of Union Territory of Puducherry
Represented by its Chief Secretary
Goubert Avenue, Puducherry - 605 001

2. The District Registrar
Registration Department, Puducherry

3. Sub-Registrar
Villianur, Puducherry - 605 110

4. The Government Pleader (Puducherry)
High Court, Madras



WEB COPY



W.P. No.9551 of 2024

N. SATHISH KUMAR, J.

Asr

W.P. No.9551 of 2024

Dated : 26.04.2024