



W.P. No.18343 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.18343 of 2024

Yamuna Devi

... Petitioner

Vs

The Sub Registrar
O/o.the Sub Registrar
Punjai Puliampatti
Sathyamangalam - Taluk
Erode - District

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to refusal check slip in RFL/Punjai Puliampatti/11/2024 on the file of the respondent/the Sub Registrar, Punjai Puliampatti dated 10.04.2024 and quash the same and further direct the respondent to register the settlement deed dated 23.12.2023 in respect of property to an extent of 3120 Sq.ft. situated in Resurvey No.17/3B, 17/3C, Sri Ganapathy Nagar, Punjai Puliampatti village, Sathyamangalam Taluk, Erode District.



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For Petitioner : Mr.D.Veerasekaran

For Respondent : Mr.L.S.M.Hasan Fizal
Addl. Govt. Pleader

ORDER

This writ petition has been filed challenging the impugned order of the respondent dated 23.12.2023, refusing to register the settlement deed executed by the petitioner in favour of her husband.

2. It is the case of the writ petitioner that the subject property has been purchased by her on 04.08.2017 from one Mr.Gopal. Now, when the petitioner presented a settlement deed executed in favour of her husband, the same was refused to be registered citing attachment orders of the III Additional District Court, Gobichettipalayam. It proceeded as if there is an attachment.

3. The learned counsel appearing for the petitioner would submit that in fact there is no attachment whatsoever passed in respect of the suit property. An order of interim injunction was granted in I.A. No.79 of 2017 in O.S. No.4 of 2017, filed against the vendor of the petitioner herein by his son. In the



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above said application itself, it is clearly disclosed that this property has already been sold in favour of the petitioner in the year 2017 itself. Therefore, it is the contention of the petitioner that the suit itself is in respect of partition of the properties. Therefore, any sale pending suit is always subject to the result of the suit. Therefore, the Registrar cannot refuse to register the document, when particularly a fair and final order passed by the III Additional District Court in I.A. No.79 of 2017 in O.S. No.4 of 2017. The same clearly indicates that the suit has been filed by the son against his father and other siblings for partition of various properties, including the subject property herein. The interim application has been taken out to prevent further sale by the vendor of the petitioner during the pendency of the suit.

4. In the above suit, the petitioner is not a party to the proceedings. Interim application was filed in 2017 and decided on 02.11.2017. Before the said order was passed by the court, a sale deed has already been executed in favour of the petitioner on 04.08.2017. The suit proceeds as if the properties are joint family properties. Be that as it may, before an order of injunction is passed, the subject property has already been dealt with by one of the co-owners. Based on that, now a settlement deed was sought to be executed.



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Therefore, this court is of the view that the sale of undivided share by any of the co-owners is permitted under law. Such being the position, mere settling the property in favour of her husband by the subsequent purchaser will not take away the right of the person who filed the suit. In the event, the subject property is allotted to the petitioner in final decree proceedings then automatically that portion shall be re-allotted as per the allotment to the vendor of the petitioner. Such being the position, mere registration of the document will not have any effect.

5. In such view of the matter, the impugned order passed by the respondent stands quashed and the respondent is directed to register the settlement deed presented by the petitioner, within a period of one week from the date of receipt of a copy of this order.

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

19.07.2024

Index : Yes / No
Neutral Citation : Yes / No
Asr



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To

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1.The Sub Registrar
O/o.the Sub Registrar
Punjai Puliampatti
Sathyamangalam - Taluk
Erode - District

2.The Government Pleader
High Court, Madras



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N.SATHISH KUMAR, J.

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