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W.P.No.22024 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.07.2024

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.22024 of 2024

P.Gopal

... Petitioner

Vs.

1.The Sub Registrar,
O/o.Sub Registrar Office,
Singanallur,
Coimbatore South Registration District.

2.P.Murali Krishnan

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent relating to the impugned order in Na.Ka.No.310/2024 dated 19.07.2024 and quash the same and consequently direct the first respondent to register the Settlement Deeds presented by the petitioner.

For Petitioner : Mr.M.Rajasekar

For Respondents : Mr.P.Anandha Kumar, GA for R1



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ORDER

This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent relating to the impugned order in Na.Ka.No.310/2024 dated 19.07.2024 and quash the same and consequently direct the first respondent to register the Settlement Deeds presented by the petitioner.

2. Heard both sides. With the consent of both sides, this Writ Petition is disposed of at the admission stage itself.

3. The case of the petitioner is that the property was originally owned by one Mariyapushpam who purchased the said property in the year 1961. Thereafter, she executed a settlement deed in favour of her adopted daughter on 24.07.1982. Thereafter, it appears that on 19.01.1993 she unilaterally cancelled the settlement deed and she executed a Will dated 07.07.1994 in favour of Anthony Pushparaj, grand son of Mariyapushpam. In the meanwhile, on the basis of the settlement deed dated 24.07.1982, a power of attorney dated 23.04.1997 was executed by the original settlee in favour of one Thangaraj. The second respondent in the meanwhile purchased the said property from Anthony Pushparaj who



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based his claim on the basis of the Will dated 07.07.1994. The petitioner has entered into an agreement for sale from the power of attorney of the original owner. Based on that, he filed a suit in O.S.No.248 of 2012. The suit has been decreed in favour of the petitioner and pursuant to the same, a sale deed was executed in his favour on 31.08.2021. Thereafter, when the petitioner presented the same for registration, the impugned order came to be passed.

4. It is the contention of the petitioner that a person who claimed title on the basis of the Will, has already filed a suit in O.S.No.1292 of 2007 for declaration and injunction as against the vendor of the petitioner and the petitioner. That suit was dismissed for default on 30.01.2012. Thereafter, the second respondent filed an application to implead himself in the suit filed by the petitioner in O.S.No.248 of 2012, which was also dismissed by the order of this Court in CRP.No.1458 of 2016 on 26.09.2018.

5. The learned Government Advocate for the first respondent submitted that the petitioner was directed to produce the copy of the orders and the same has not been produced. Hence, the refusal slip has



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been passed.

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6. The copy of the orders available on record clearly indicate that the title over the second respondent has not been established and the suit filed by him in O.S.No.1292 of 2007 was dismissed for default and thereafter, an application filed to restore the suit was also dismissed and it had reached finality by an order dated 28.01.2013. Thereafter, the second respondent also made an attempt to implead himself in the suit filed by the petitioner in O.S.No.248 of 2012 which was also dismissed by the order of this Court. Therefore, the right of the second respondent over the property acquired on the basis of the said will has not been established in the competent Court of law. Such being the position, a sale deed has been executed in favour of the petitioner by the Additional Sub Court, Coimbatore. Therefore, the petitioner has got the title.

7. At this stage, the petitioner has presented the settlement deed for registration and the same was refused to be registered. The facts narrated above clearly indicated that the petitioner has got a clear marketable title. If the second respondent wants to establish his title, he has to do only



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before the Civil Court not before the Sub-Registrar. Therefore, the refusal slip issued by the first respondent cannot be sustained in the eye of law.

8. In such view of the matter, this Writ Petition is allowed and the impugned order in Na.Ka.No.310/2024 dated 19.07.2024 is set aside and the first 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. No costs.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

31.07.2024

To
The Sub Registrar,
O/o.Sub Registrar Office,
Singanallur,
Coimbatore South Registration District.

N.SATHISH KUMAR, J.

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