



W.A.No.2683 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

W.A.No.2683 of 2024

and

C.M.P.No.19454 of 2024

M.Monica

... Appellant

Vs.

1.Ms.C.Senthil Vadivu

2.The Sub-Registrar,
Harur Taluk,
Dharmapuri District.

... Respondents

Prayer:- Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 09.07.2024 in W.P.No.31940 of 2022 on the file of this Court.

For Appellant : Mr.P.Muthusamy

For R2 : Mr.G.Krishnaraja
Additional Government Pleader



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J U D G M E N T

(Judgment was delivered by **S.S. SUNDAR, J.**)

This Writ Appeal is directed against the order of the learned Single Judge dated 09.07.2024 made in W.P.No.31940 of 2022, allowing the writ petition filed by the 1st respondent in this appeal for quashing the check slip issued by the 2nd respondent refusing to register the document of conveyance executed by the writ petitioner.

2.Brief facts that are necessary for the disposal of this Writ Appeal are as follows :

2.1.The appellant is the absolute owner of the property measuring an extent of 9 Cents in S.No.188/2 situated at Paraiyapatti Village, Pappireddipatty Taluk, Dharmapuri District. It is not disputed by the appellant that she had executed a document dated 25.06.2021 which is in the nature of an agreement giving a right of easement in favour of the writ petitioner to use appellant's property as a cart track with certain rights and



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privileges which can be exercised by the writ petitioner for the convenient and beneficial enjoyment of her property.

2.2.It is to be noted that the writ petitioner is the adjacent owner. It is now stated and admitted that a Civil Suit is filed by the writ petitioner in O.S.No.22 of 2022 for declaration of her right and consequential injunction in respect of the same property. It appears that the writ petitioner/1st respondent executed a sale deed in favour of a third party in respect of her property. The writ petitioner, on the same day, while executing the sale deed in respect of her property, executed another document conveying the right of easement which she claimed under the document executed by the appellant dated 25.06.2021, in her favour. When the 1st respondent presented the latter document for registration, it appears that the appellant raised an objection on the ground that a Civil Suit is pending in respect of the property to which the 1st respondent claims right of easement. Based on the objection raised by the appellant, the Sub-Registrar refused to register the document.

2.3.The check slip refusing to register the document, was challenged by the 1st respondent before this Court in the writ petition in W.P.No.31940



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of 2022. The writ petition was allowed and the Sub-Registrar was directed to register the document dated 07.11.2022, presented by the writ petitioner for registration, within a period of one month.

2.4.As against the order allowing the writ petition, the above Writ Appeal is filed.

3.Learned counsel for the appellant pointed out that the learned Single Judge has assumed as if the writ petitioner had purchased the property by a registered sale deed dated 25.06.2021.

4.We saw the document and the document is not a sale deed and it is only in the nature of an agreement where the appellant had given certain rights and privileges in favour of the writ petitioner for the convenient enjoyment of the property of the 1st respondent/writ petitioner. However, that does not affect the order on merits. The right of writ petitioner to use the property as a cart track, which is only a right of easement, is not disputed by the appellant. The writ petitioner has executed a sale deed in favour of a third party conveying her right. Merely because the writ



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petitioner has not acquired title under the previous document, that does not prevent her from conveying the right of easement in favour of the buyer of her property. A person is entitled to convey whatever he owns and of course, he cannot convey anything more than what he has. However, the Sub-Registrar is not required to decide whether a person has got title at the time when the document is presented for registration. Registration Act does not confer a power on the Registrar to decide disputed questions of title or right. Since Registration Act does not control the transaction, the Sub-Registrar cannot refuse to register a document merely because the executant has no title. However, on admitted facts, if the Registrar comes to know that a person executes a document to deceit or defraud a third party or if a document itself is vitiated by fraud which is apparent, he may refuse registration in such circumstances, in view of the judicial precedents of this Court.

5.The writ petitioner is competent to execute a document by which what is conveyed is only a right of easement along with the property she owned. Therefore, the appellant, who has no dispute as regards the writ



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petitioner's right to have access through the property, cannot oppose registration and compel the Sub-Registrar to decide as to the character and nature of right she had conveyed under the earlier document. Since a Civil Suit is pending, it is open to the appellant to raise all her objections before the Civil Court for appropriate judgment. However, the impugned check slip cannot be sustained in view of the law settled by this Court and the Hon'ble Supreme Court in *Satyapal Anand v. State of Madhya Pradesh and others* reported in (2016) 10 SCC 767.

6. Accordingly, this Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R., J.) (K.R.S., J.)
09.09.2024

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

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