



W.P.No. 26023 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.11.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 26023 of 2024
and W.M.P.No.28440 of 2024

1. M.Shanmugasundaram
2. P.Kavitha

...Petitioners

Vs

1. The Inspector General of Registration
100, Santhome High Road
Mandavelipakkam, Chennai – 600 028
2. The Deputy Inspector General of Registration
Kumaragiri Bypass Road,
Near Kailash Manasarovar CBSC School,
Ammamet – 636 014, Salem District
3. The District Registrar (Admn),
District Registrar Office,
Krishnagiri, Krishnagiri District.
4. The Sub Registrar
Uthangarai SRO,
Uthangarai Taluk,
Krishnagiri District
5. R. Pavayee



W.P.No. 26023 of 2024

6. R. Ganesan

7. R. Rajee

...Respondents

WEB COPY

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned orders dated 24.08.2023 made in 3333/E3/2023 passed by the 2nd respondent (served on 06.03.2024) confirming the order dated 05.12.2022 made in Na.Ka.No.4677/U/2022 passed by the 3rd Respondent, quash the same and consequently direct the 4th Respondent to remove the entries linked to the main document and encumbrance certificate in respect of the Partition Deed dated 15.07.2002 (Doc No. 1346/2002) and the two sale deeds dated 18.08.2003 (Doc.No. 1613 & 1614/2003).

For Petitioner : Mr.N.Manoharan

For Respondents 1 to 4 : Mr.B.Vijay
Additional Government Pleader

For Respondent 5 : Mr.T.S.Baskaran

For Respondent 6 : Mr.Suhrith Parthasarathy

For Respondent 7 : Not ready in notice

ORDER



Challenging the order passed by the 2nd respondent in his proceedings dated 24.08.2023 made in No.3333/E3/2023 in and by which the order passed by the 3rd respondent dated 05.12.2022 made in Na.Ka.No.4677/U/2022 was confirmed, the petitioners have moved this Court to quash the above two orders and to issue directions not to entertain any document for registration in respect of the property which is the subject matter of this writ petition.

2. The petitioners' contention is that the properties comprised in S.F.No.16/1 (4.36 acres) of Thurinchipatti Village and S.F.No.4/2A (1.98 acres), S.F.No.23/1A (1.82 acres), S.F.No.24/1(8.20 acres), S.F.No.19/1A1 (9 ½ cents), S.F.No.22/1A1(3 ½ cents), S.F.No.22/2A1 (12 cents) S.F.No.23/1B (16 cents) and S.F.No.19/1A2 (1.89 acres) of Kollapatti Village, Krishnagiri District was originally owned by late Raja Gounder. Apart from the aforesaid lands, Raja Gounder had also purchased to an extent of 1.28 acres in S.F.No.35/3A2 of Selakkarampatti Village in the name of his wife, the 5th respondent



herein. Raja Gounder died on 20.02.1980 leaving behind him surviving his wife and his sons, Ganesan, Rajee and late Arunachalam as his legal heirs.

3. After mutual discussions, the legal heirs decided to partition the above properties and accordingly, the 3 sons of Raja Gounder had entered into a Partition Deed dated 15.07.2002 in which “A” schedule was allotted to the 7th respondent, “B” schedule to the 6th respondent and “C” schedule to late Arunachalam. Each of the sharers were put in separate possession and enjoyment of their respective properties and patta was also mutated in their names. The 5th respondent, Pavayee was not given any share in the partition since her husband had already purchased certain properties in her name. The said Pavayee had signed as a witness in the Partition Deed dated 15.07.2002. The recitals in the partition deed clearly state that the said Pavayee was not allotted any share, as there were some properties already purchased in her name.

4. The younger son, Arunachalam had appointed one



Balamurugan and Manivel as his Power Agents under the General Power of Attorney Deed dated 24.02.2003 and through his Power Agents, the subject properties were sold to the 1st petitioner under a registered sale deed dated 18.08.2003. It is also seen that the 5th respondent had also executed a Settlement Deed dated 06.09.2006 in favour of her son, Arunachalam in respect of her properties measuring 1.30 acres in S.F.No.17/2 of Thurinchipatti Village. The settlement deed makes a reference to the partition deed dated 15.07.2002 and the eastern boundary was also described as the property purchased by the 1st petitioner. Therefore, it is crystal clear that the 5th respondent had knowledge about the sale in favour of the petitioners.

5. The petitioner would submit that nearly 20 years after the purchase of the property, the 7th respondent has instigated his mother, the 5th respondent to file a suit in O.S.No.219 of 2022 on the file of the Sub Court, Uthangarai, seeking a partition of her $\frac{1}{2}$ share against the 1st petitioner, respondents 3 to 7 and the power agents of late Arunachalam



on 01.06.2022. The suit was laid on the premise that the 5th respondent was entitled to a share in the property. The 1st petitioner herein had entered appearance and filed his written statement in the original suit.

6. On 04.07.2020, the 5th respondent had executed a settlement deed in favour of the 7th respondent in respect of one of the properties remaining in her name and it is the very same property in which both respondents 5 and 7 were residing. The 1st petitioner in the mean time executed two sale deeds dated 01.06.2022 and 06.06.2022 in favour of the 2nd petitioner.

7. The 4th respondent had issued refusal check slips in respect of the above sale deeds. This order was challenged in W.P.Nos.22916 and 23114 of 2022 respectively. By orders dated 29.08.2022 and 30.08.2022, the writ petitions were allowed directing the Sub Registrar to register the documents. However, the Sub Registrar had kept the documents pending. In this background, the 3rd respondent has passed



the impugned order dated 05.12.2022 treating one Partition Deed and two sale deeds as fraudulent documents and directed the 4th respondent, the Sub Registrar, to make necessary entries in the encumbrance certificate, stating that the registration was found to be fraudulent, as per the proceedings of the District Registrar(Admin), Krishnagiri. This order was not served upon the 1st petitioner and the order copy sent by post to the address mentioned in the Sale Deed was returned with an endorsement “No such addressee”. After coming to know about the order, the petitioners filed O.S.No.91 of 2023 on the file of the Principal District Court, Krishnagiri seeking the following reliefs:-

a) Declaring the order No.4677/2/2022 dated 05.12.2022 passed by the 6th defendant for cancelling the Partition deed dated 15.07.2002, the Sale deed dated 18.08.2003 and the Sale deed dated 18.08.2003 as null and void,

b). Declaring the 2nd plaintiff's title over the suit properties consequently restraining the 1st defendant and her men, agents, servants, executors administrators



or assignees etc., from in any manner disturbing the 2nd plaintiff's peaceful possession and enjoyment of the suit property by means of permanent injunction,

c). Directing the 7th defendant to register the Sale deed executed by the 1st plaintiff in favour of the 2nd plaintiff by means of mandatory injunction,

d). Directing the 8th defendant to register the Sale deed executed by the 1st plaintiff in favour of the 2nd plaintiff by means of mandatory injunction,

e). Restraining the 1st defendant and her men, agents, servants etc., from in any manner from alienating or encumbering the suit property by means of permanent injunction,

f) Restraining the 10th defendant and his men, agents, servants etc., from in any manner from transferring the Patta and the revenue records of the suit property based on the order of the 6th defendant by means of permanent injunction.

The petitioners were not served with any notice before passing the impugned order. Therefore, they have come forward with this writ



petition.

WEB COPY

8. Heard the learned counsels on either side and perused the materials available on record.

9. The documents have been declared as fraudulent documents on the basis of a claim made by the 5th respondent that she has not been taken into consideration and therefore, seeking a partition of the properties. A perusal of the Partition Deed dated 15.07.2002 clearly shows that the 5th respondent had signed as a witness. That apart, she has executed a settlement deed in favour of her son Arunachalam prior to his demise in respect of the property measuring 1.30 acres in S.F.No.17/2 of Thurinchipatti Village. In the said Settlement Deed, the 5th respondent has made a mention about the Partition Deed dated 15.07.2002 and the boundary description also describes the eastern boundary as the property that has been sold to the 1st petitioner. Thereafter on 04.07.2020, the 5th respondent has executed a Settlement



Deed in favour of the 7th respondent. The 5th respondent has approached the revenue authorities nearly 20 years after the execution of the sale in favour of the petitioner. Further, she has already filed a suit O.S.No.219 of 2022 and the petitioner herein has filed a suit O.S.No.91 of 2023. Once there is a serious dispute with reference to the title and when there are two suits pending, the 2nd respondent ought not to have entertained the application for cancelling the documents.

10. It is also pointed out that the petitioner has initiated the suit O.S.No.91 of 2023 for the relief of declaration declaring the order dated 05.12.2022 passed by the District Registrar, Krishnagiri as null and void. This is the subject matter of the proceedings before the revenue authorities as well as this Court.

11. The learned counsel for the petitioner undertakes to give up the prayer (a) in the suit O.S.No.91 of 2023 pending on the file of the



W.P.No. 26023 of 2024

District Court, Krishnagiri.

WEB COPY

12. Accordingly, the writ petition is allowed. The impugned order is set aside. This Court, with the consent of both the parties, transfers the suit O.S.No.219 of 2022 pending on the file of the Subordinate Court, Uthangarai to the file of the District Court, Krishnagiri to be tried along with O.S.No.91 of 2023. There shall be no order as to costs. Consequently, miscellaneous petition is closed.

21.11.2024

Index: Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
srn

To,

1. The Inspector General of Registration
100, Santhome High Road
Mandavelipakkam
Chennai – 600 028.
2. The Deputy Inspector General of Registration
Kumaragiri Bypass Road,

11/13



W.P.No. 26023 of 2024

Near Kailash Manasarovar CBSC School,
Ammamet – 636 014
Salem District

WEB COPY

3. The District Registrar (Admn),
District Registrar Office,
Krishnagiri District
Krishnagiri
4. The Sub Registrar
Uthangarai SRO,
Uthangarai Taluk,
Krishnagiri District



WEB COPY



W.P.No. 26023 of 2024

P.T.ASHA, J.,

srn

W.P.No. 26023 of 2024
and
W.M.P.No.28440 of 2024

21.11.2024