



W.A.No.2737 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

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1.Veda Mohamed Riza

2.K.P.Subramaniam

...Appellants

Vs.

1.The Inspector General of Registration,
100, Santhome High Road, Mylapore,
Chennai, Tamil Nadu – 600 028.

2.The Sub-Registrar, Virugambakkam,
47/5, Arcot Road, Udhayam Colony,
Lambert Nagar, Virugambakkam,
Chennai, Tamil Nadu – 600 092.

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the impugnd order dated 19.06.2023 passed in W.P.No.17700 of 2023.

For Appellants	:	Mr.G.Vivekanand
For Respondents	:	Mr.L.S.M.Hasan Faizal, Additional Government Pleader



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J U D G M E N T

(Judgment of the Court was made by **R.SUBRAMANIAN, J.**)

Challenge in this appeal is to the order of the learned Single Judge dismissing the writ petition seeking to quash the refusal check slip issued by the 2nd respondent on 04.08.2022 refusing to register a release deed executed by the 1st appellant in favour of the 2nd appellant on the ground that the legal heirship certificate to demonstrate that the 1st appellant is the daughter of Mrs.Visalam Hariharan, who is the co-purchaser along with the 2nd appellant under the sale deed dated 07.09.1994.

The brief facts that led to the filing of the writ petition are as follows:-

2. The 2nd appellant Mr.K.P.Subramaniam along with the mother of the 1st appellant purchased 301 sq.f of undivided share in the larger extent of land measuring about 17.22 cents and constructed a residential apartment therein measuring about 720 sq.f. The co-purchaser Mrs.Visalam Hariharan/ mother of the 1st appellant died on 13.04.2009. Her husband Mr.Hariharan pre-deceased her on 11.10.2001 leaving behind the 1st appellant, their only daughter, as their successor in interest.



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3. The 1st appellant executed a release deed on 04.08.2022 in favour of the 2nd appellant, the other co-owner. Since they are not family members the question of concessional stamp duty does not arise. The registering officer, however, returned the instrument which was presented for registration with an endorsement requiring the parties to produce the legal heirship certificate of Mrs. Visalam Hariharan, the original owner. Aggrieved the writ petition came to be filed with the prayer aforesaid seeking to quash the return memorandum and to direct registration of the document.

4. The writ Court however dismissed the writ petition on the ground that when the registering authority has a doubt about the identity of the person he can refuse to register the instrument.

5. From the return endorsement we do not see that the registering authority had the doubt about the identity of the 1st appellant. Her birth certificate, her overseas citizen of India Card, her passport issued by United Kingdom of Great Britain Northern Ireland and her MBBS degree certificate issued by Mangalore University as early as in 1991 have been produced. All these documents bear enough proof to show that the 1st appellant is the



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daughter of Mr.Hariharan and Mrs.Visalam Hariharan.

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6. No doubt, the registering authority might have entertained a doubt whether there are other legal heirs for Mr.Hariharan and Mrs.Visalam Hariharan. But that cannot be a ground for rejection of the document presented for registration. More so, when it is a release deed by the heir of one of the co-owners in favour of the other and the other co-owner is more acquainted with the status of the person executing the document than the registering authority.

7. We are therefore unable to sustain the reasoning of the writ Court and we conclude that the refusal to register on the ground that the legal heirship certificate has not been produced cannot be sustained. Enough proof has been placed in the form of valid documents issued by competent authorities to show that the 1st appellant is the daughter of the deceased Mrs.Visalam Hariharan, who was the co-owner of the property in question.

8. We therefore have no hesitation in setting aside the order of the writ Court and refusal endorsement made by the Registrar. We direct the Sub-



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Registrar, Virugambakkam, the 2nd respondent in this appeal to register the instrument on presentation. The appellants are also directed to produce the copies of the documents placed before us viz., the birth certificate of the 1st appellant, her overseas citizen of India Card, her passport issued by United Kingdom of Great Britain Northern Ireland and her MBBS degree certificate issued by Mangalore University.

9. We find that the refusal check slip is dated 04.08.2022 and the writ petition challenging the refusal check slip was filed only after expiry of 120 days prescribed under Section 23 of the Registration Act. Therefore, the document which is now placed before us cannot be re-presented for registration.

10. We make it clear that it will be open to the appellants to have fresh document executed and any such document executed in relation to the property in question by the 1st appellant in favour of the 2nd appellant shall be registered by the Sub-Registrar without insisting on the legal heirship certificate subject to production of copies of other documents referred to *supra*. The registration shall be done within a period of fifteen days from



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the date of presentation of the document. No costs.

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(R.S.M., J.) (R.S.V., J.)
27.06.2024

dsa
Index : No
Internet : Yes
Neutral Citation : No
Speaking order



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To:-

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and
R.SAKTHIVEL, J.

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