



W.P.No.32809 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.11.2024

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 32809 of 2024

R.Malliga

...Petitioner

Vs.

1.The Sub Registrar
Thozhudur Sub Registration Office,
Thozhudur,
Thittakudi Taluk,
Cuddalore District- 606 303.

2.Ramasamy

3.Chellammal

4.Chellamuthu

5.Bhanumathi

...Respondents



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Prayer: Writ Petition is filed under Article 226 to issue a Writ of Mandamus directing the 1st respondent to entertain and register a document of encumbrance from the petitioner in respect of the property, being agricultural punjai lands, bearing Patta No.99, comprised in Survey No.7/1, measuring to an extent of 0.28.0 hectare (i.e) acre 0.69 cents, Survey No.7/2, measuring to an extent of 0.25.50 hectare (i.e.) acre 0.63 cents; and Survey No.7/4A, measuring to an extent of 0.57. hectare (i.e) acre 1.41 cents, totally acre 2.73 cents, situated at Vaidhyanathapuram Village, Thittakudi Taluk, Cuddalore District and release the same to the petitioner.

For Petitioner : Mr. R.Munuswamy

For Respondent 1: Mr. M.Shahjahan
Special Government Pleader.

ORDER

The settlement deed presented by the petitioner for registration has neither been accepted nor refused by the 1st respondent. Aggrieved thus the petitioner is before this Court.



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2. The reason that has been given orally by the 1st respondent is that an attachment before Judgement order passed in I.A.No.127 of 1998 in O.S.No.18 of 1998, which is a suit for recovery of money filed by one Asalambal against Rengasamy has entered in the encumbrance. Therefore, the settlement deed could not be registered. Therefore, the petitioner is before this Court.

3. Heard the learned counsels on the either side and perused the records.

4. The petitioner would submit that the respondents 2 to 5 are the legal representatives of the said Asalambal. The petitioner would submit that after the ex parte decree, the said Rengasamy had settled the entire dues and respondents 2 to 5 have not taken any steps to lift the attachment order and neither have they taken any steps to execute the decree. The petitioner would submit that nearly 23 years have



elapsed, since the date of the decree which is on 20.12.2001 and the period for executing the decree is also passed.

5. The petitioner would submit that when the sale deed was registered in favour of the petitioner in the year 2008, there is no protest by the respondents 2 to 5. The very same registering officer has registered the said sale deed and an objection has only been raised now. Therefore, considering the fact that respondents 2 to 5 have not taken any steps to execute the decree and as a period of over 20 years have lapsed since the date of attachment before Judgement it can be presumed that the respondents 2 to 5 have already realised the dues under the decree passed in O.S.No.18 of 1998.

6. That apart, the 1st respondent cannot refuse to register the settlement deed on the above ground. Further, the 1st respondent is bound to receive the document and in case of refusal to register the document, he has to follow the procedure under Section 71 of the



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Registration Act. He cannot keep the document pending.

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7. Therefore, in the light of the above circumstances, the Writ Petition is allowed. The 1st respondent is directed to register the settlement deed submitted by the petitioner, within a period of 2 weeks from the date of receipt of a copy of this order. No costs.

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Index : Yes/No
Internet : Yes/No
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To

The Sub Registrar
Thozhudur Sub Registration Office,
Thozhudur,
Thittakudi Taluk,
Cuddalore District- 606 303.



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P.T. ASHA, J,

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