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W.A.Nos.3530 & 3474 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

CORAM

THE HON'BLE Mr. JUSTICE S.S.SUNDAR
AND
THE HON'BLE Mr. JUSTICE P.DHANABAL

W.A.Nos.3530 & 3474 of 2024
AND
C.M.P.Nos.27322 & 27021 of 2024

The Sub Registrar
Perambakkam Sub-Registrar Office
Thiruvallur District

.. Appellant in both W.As

Vs.

M.Dakshinamurthy

.. Respondent in W.A.3530 of 2024

B.Murugan

.. Respondent in W.A.3474 of 2024

Writ Appeals filed under Clause 15 of the Letters Patent, against the common order dated 10.04.2024 passed by the learned Single Judge in W.P.Nos.31087 and 31080 of 2019.

For Appellant in both WAs	: Mr.B.Vijay Additional Government Pleader
For Respondent in both WAs	: Mr.K.Balaji



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COMMON JUDGMENT

(Delivered by S.S.SUNDAR, J.)

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These appeals are directed against the common order dated 10.04.2024 passed by the learned Single Judge allowing the writ petitions filed by the private respondents for issuance of a writ of mandamus directing the Sub Registrar, the appellant herein, to release the settlement deeds dated 07.03.2018 which are registered as document Nos.428, 424, 425 and 427 of 2018 to them.

2. The brief facts that are necessary for the disposal of these writ appeals are as under :

2.1. The respondent in the respective appeals claim title to parcels of land comprised in old survey No.301/12 part, new survey No.274/7 situated at Perambakkam Village, Thiruvallur Taluk and District. It is admitted that the respondents/writ petitioners have executed settlement deeds in favour of their kith and kin and those documents were duly registered by the appellant.

2.2. However, the appellant has not released any of those documents under the pretext that the properties which are the subject matter of settlement deeds are classified as Government poramboke lands and that already intimation



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has been given by the Revenue officials about the character of the property.

Though the respondents claim that they had obtained patta, it is stated by the Revenue officials before the Sub Registrar that such patta had been cancelled later.

2.3. The learned Single Judge, disposed of all the writ petitions, holding that it is not within the purview of the Sub Registrar to cancel the documents, which has already been registered. The learned Single Judge, further observed that unless a document which is required to be retained for the purpose of determining market value under Section 47-A of the Indian Stamp Act, the registering officer cannot retain the document nor decide the question of title on the basis of any objection raised. Hence, the writ petitions were disposed of with a direction to the appellant to release the settlement deeds to the respective writ petitioners *viz.*, the respondent in these appeals within a period of one month. Challenging the said order, the respondent in the writ petitions have filed the above appeals.

3. The learned Additional Government Pleader produced before this Court a common order passed by a Division Bench of this Court on 13.10.2023, in a batch of writ petitions in W.P.Nos.24283 to 24286 of 2017 filed by the



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petitioners or their predecessor in interest. The batch of writ petitions were filed, challenging the order passed by the Block Development Officer, Kadambathur Panchayat Union, directing eviction under the provisions of Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules, 2007. The Division Bench of this Court, after finding that the land is classified as cart track and the adjacent area as a water body, held that the order is perfectly valid and the respondents therein were further directed to complete the process of removal of encroachment and to initiate disciplinary proceedings as against those officials who have failed to take action, despite directions of this Court earlier.

4. Relying upon the said order, the learned Additional Government Pleader would state that the order impugned in this appeal, cannot be sustained. This Court is unable to accept this submission of the learned Additional Government Pleader. This Court has repeatedly held that the question of title cannot be decided by the Sub Registrar, in exercise of power under the Registration Act. Therefore, the learned Single Judge is right in allowing the writ petitions directing the respondent to release the settlement deeds.



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5. This Court, while confirming the order of the learned Single Judge, does not uphold the title or right of the writ petitioners. If the property is a poramboke land or water body or a communal land, it is always open to the Revenue department to take action. It is in the said circumstances, while confirming the order of the learned Single Judge and in public interest, this Court pass the following order :

- i. The documents which are submitted by the respondents shall be released within a period of six weeks from the date of receipt of a copy of this judgment.
- ii. The Sub Registrar/appellant is directed to register the common order dated 13.10.2023 passed by a Division Bench of this Court in a batch of writ petitions in W.P.Nos.24283 to 24286 of 2017. In case, a further appeal is also filed by the respondents, the outcome of the appeal can also be registered.
- iii. The Sub Registrar/appellant is directed to make appropriate endorsement in the documents registered, so that no third-party will be put to hardship, when they deal with the property believing that the writ petitioners are the actual owners of the property.
- iv. It is made clear that this observation will be subject to the outcome of any appeal that may be filed by the respondents against the order



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of the Division Bench and in case, the respondents are granted liberty to establish their title before the civil Court and the civil Court shall decide the title uninfluenced by any of our observations in this order.

With the above directions, these writ appeals are disposed of. No costs.

Connected C.M.Ps are closed.

[S.S.S.R.,J.] [P.D.B., J.]
02.12.2024

Index : Yes/No
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