



W.P.No.29985 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.11.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 29985 of 2024

Mohammed Ameen

...Petitioner

Vs.

1.The Sub Registrar
The Registrar Office,
Purasawalkam,
No.6/13, Adhi Venu Heights,
Porteous Road,
Ayanavaram,
Chennai-600 023

2.Chandrakala

...Respondents

Prayer: Writ Petition is filed under Article 226 to issue a Writ of
Mandamus directing the 1st respondent to register the settlement deed



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dated 16.08.2024 presented by the petitioner.

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For Petitioner : Mr. K.Gangadaran

For Respondent 1: Mr. C.Sathish
Government Advocate

For Respondent 2: No Appearance.

ORDER

The petitioner has moved this Writ Petition seeking mandamus to the 1st respondent to register the settlement deed dated 16.08.2024, which has been presented by the petitioner before the 1st respondent. The 1st respondent has refused to take on file the settlement deed stating that a protest petition has been filed by the 2nd respondent.

2. The petitioner would submit that the property which is the subject matter of the Writ Petition was originally owned by his father on the basis of the settlement deed dated 24.09.1954 registered as document No.1997/54 on the file of the Sub Registrar, West Madras.



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The said settlement deed was executed by the petitioner's father's elder brother, Jainulabdeen, in favour of the petitioner's father, Mohammed Yusuff.

3. The petitioner's father in turn had executed a registered settlement deed dated 30.07.2004, registered as Doc.No.3122 / 2004 on the file of the Sub Registrar, Purasawalkam, in favour of the petitioner.

4. The petitioner would submit that all along from the year 1954, his family has been in possession and enjoyment of the property and out of love and affection for his daughter Shabnam Naaz, he had decided to settle the property in question on her and had prepared a settlement deed dated 16.08.2024 and presented it for registration before the Sub Registrar, Purasawalkam. The Sub Registrar refused to entertain the document stating that there was a protest petition lodged by the 2nd respondent.



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5. The 2nd respondent had initiated proceedings under Section 138 of the Negotiable Instruments Act, against the petitioner in S.T.C.No.999 of 2020, on the file of the Judicial Magistrate, Fast Track Court, Poonamallee. The petitioner was convicted by the Judgement and Decree dated 12.06.2024, against which an appeal has been preferred to the Principal District Judge, Tiruvallur, in C.A.No.4890 of 2024. However, the 2nd respondent has not obtained any attachment order or injunction order from the Court but has simply lodged protest petition by reason of which the document is not being registered.

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



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7. The Registration Act not only sets out the scope of enquiry that a Sub Registrar could engage upon when a petition is presented for registration but also the grounds on which the refusal can be made. The registering authority has to take into consideration only the execution of the document and the identity of the person presenting the document for registration and his authority, if he is a power agent, assignee, respectively.

8. The reasons for refusal have been enumerated in Section 22 A of the Tamil Nadu Act. If not, the registering authority is bound to take on file the document and register it. This is the view that has been taken not only by this Court but also the Hon'ble Supreme Court in numerous cases.

9. Therefore, the Writ Petition is allowed. The registering authority shall within a period of 2 weeks of the filing of the document, register the same. No costs.



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Index : Yes/No
Internet : Yes/No
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To

The Sub Registrar
The Registrar Office,
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No.6/13, Adhi Venu Heights,
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Chennai-600 023



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