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W.A.No.1882 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2024

CORAM:

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

W.A.No.1882 of 2023
and
C.M.P.No.16336 of 2023

1.The District Registrar /
Assistant Inspector General,
Registration Department,
Collectorate Campus, Coimbatore.

2.The Sub-Registrar,
Ganapathy, Coimbatore North Taluk,
Coimbatore.

...Appellants

Vs.

Anusha Rajinikanth
Represented through her Power Agent

...Respondents

Prayer: Writ Appeal filed under Clause 15 of Letter Patent, against the order
dated 13.05.2022 in W.P.No.12742 of 2022.

For Appellants : Mr.L.S.M.Hasan Faizal
Additional Government Pleader
For Respondent : Mr.D.Saravanan



J U D G M E N T

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

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The appellants seek to canvass the correctness of the order made in W.P.No.12742 of 2022 in and by which, the Writ Court allowed the Writ Petition seeking to quash the order of the 1st appellant dated 07.04.2022 confirming the refusal cheque slip issued by the 2nd appellant.

2.The facts that led to the filing of the Writ Petition are as follows:-

The petitioner purchased the properties subject matter of the Writ Petition from one Santhalingam, S/o. V.K.Periasamy under a sale deed dated 05.09.2018. The said Santhalingam claimed title to the property that is subject matter of the sale under a settlement deed dated 07.09.1946 executed by his father, V.K.Periasamy Gounder wherein, a life estate was given to his mother Tmt.Subammal and after her life time, the property is to be enjoyed by the male heirs of V.K.Periasamy Gounder. It is not in dispute that the Vendor under the sale deed, Santhalingam is the son of V.K.Periasamy Gounder. It is also not in dispute that Subbammal, the life estate holder had died in the year 1970. On the death of Subbammal, the life estate holder, the property devolved on Santhalingam, the Vendor under the sale deed



dated 05.09.2018. It appears that Subbammal, a life estate holder had created certain alienations in respect of the property and those alienees had approached the Revenue Authorities seeking patta and there was a dispute regarding their entitlement. This culminated in order being passed by this Court in W.P.No.27905 & 28236 of 2018 on 15.11.2021 wherein, the order of the Revenue Authorities dated 15.10.2018 was quashed and there was a direction to conduct a de nova enquiry. It is the pendency of these proceedings which is cited as reason to refuse registration of the sale deed by the Sub-Registrar.

3. The learned Single Judge had rightly set aside the order of the Appellate Authority and directed registration of the sale deed on the ground that the ground for rejection does not fall within the grounds enumerated in Section 22-A or 22-B of the Registration Act or Rule 55-A of the Registration rules. The power that is vested in the Sub-Registrars to refuse registration or cancel instruments is restricted to certain documents which fall within the scope of Section 22-A or B. It does not extend beyond that. The normal rule of law in transactions relating to immovable property is "Caveat Emptor" (buyer beware). It is not



for the registering authorities to examine the title of the executant. If the purchaser is willing to purchase the property from the vendor, he takes the risk and if he purchases from a person who does not have a title, it is his problem and not that of the registering authority. The concept of objections being made by the third parties to registration itself is unknown to law unless the property belongs to the Government or Religious Institutions and it falls under Section 22-A. Such objections cannot be dealt with by the Registering Authorities.

4. An attempt is made by the appellants to bring the document in question within Section 22-B on the ground that it is a forged instrument. Forgery as it is formally understood and defined under Indian Penal Code is an offence where a person creates a document as it is executed by some other person. Section 463 of IPC defines forgery as follows:-

"463. Forgery.—

Whoever makes any false documents or false electronic record or part of a document or electronic record, with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent



to commit fraud or that fraud may be committed, commits forgery."

and Section 464 of IPC deals with making a false document.

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5. The essential ingredient of the offence of forgery is that it should be done with an intention of causing it to be believed that such document or part of the document or electronic record was made, signed, executed by or by authority of a person by whom or by whose authority he knows that it was not made, signed, sealed executed or affixed. Therefore, in order to constitute an offence of forgery or making of a false document, it should be done with an intention to make it appear that it was executed by some other person. To put it plainly, if A signs as B with an intention of making others believe that B had signed the document, it would amount to forgery.

6. The facts that are set out above would clearly show that there is no element of forgery involved in this transaction. The Vendor / Santhalingam claims title to a property under a settlement deed. The life estate holder herself created certain alienations earlier. The validity or otherwise of the alienations made by the life estate holder or the right title and interest of



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Santhalingam cannot be examined by the Registering Authority. They are matters which are within the exclusive jurisdiction of a Competent Civil Court which has to pronounce upon them on evidence.

7. Hence, we see no merits in the appeal. This Writ Appeal fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.M., J.) (R.S.V., J.)
13.06.2024

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Internet: Yes

Index: No

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Neutral Citation : No

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