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W.P. No.33217 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.33217 of 2023

Tmt.R.Santhi

... Petitioner

Vs

- 1.The Principal Secretary
Department of Registration
St. George Fort, Chennai - 600 005
- 2.The Inspector General of Registration
O/o.the Inspector General of Registration
No.100, Santhome High Road, Chennai - 600 028
- 3.The Deputy Inspector General of Registration
O/o.the Deputy Inspector General of Registration
Chennai Zonal, Chennai - 600 035
- 4.The District Registrar (Administration)
O/o.The District Registrar
Chengalpattu - 603 002
- 5.The Sub Registrar
O/o.the Sub Registrar
Uthiramerur - 603 406
- 6.Tmt.Rehka @ Rehka Mercy
- 7.Tmt.Jebaranjani

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the record of the 4th respondent in No.5626/Aa1/2021 dated 07.03.2022 and quash the same and further direct the 4th respondent to cancel the Life Interest Deed in favour of 6th respondent minor son Samuvel @ Ajay Samuvel dated 20.07.2022 in document No.3109/2022 registered at Sub Registrar, Uthiramerur and to direct the 5th respondent to register the Document No.P65/2018 dated 28.05.2018 and to consider the representation given by the petitioner dated 06.07.2022 now pending before the 4th respondent.

For Petitioner : Mr.R.Esakki Raja

For Respondents : Mr.B.Vijay, Addl. Govt. Pleader
For R1 to R5
Mr.K.K.Senthilvelavan, Sr. Counsel
for Mr.T.K.S.Gandhi for R6 & R7

ORDER

Challenge has been made to the impugned order passed by the original authority, namely the fourth respondent in refusing to register the document presented by petitioner's husband. Challenging the same, when an appeal was filed before the second respondent, namely the Inspector General of



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Registration, the appellate authority has once again directed the fourth respondent to decide the issue.

2. The facts leading to the filing of the present writ petition is that the sixth respondent and her minor son had executed a sale deed in favour of petitioner's husband on 28.05.2018. When the document was presented for registration, the same was kept as pending document No.65/2018 on the ground that the original title deed has not been produced. Thereafter, it appears that a missing certificate is also produced to show that the original settlement deed has been missing. Thereafter, the deficit stamp duty is also paid by the petitioner, however at that stage, a protest application has been filed by the sixth respondent against the registration. Based on the protest application, the refusal order has been originally passed. Thereafter, an appeal was filed under Section 72 of the Registration Act and the same was dismissed.

3. The learned counsel appearing for the sixth respondent would submit that though the sale deed was executed in the year 2018 in favour of the petitioner's husband, the same was under compulsion. That apart, the minor property was also involved and a civil dispute is also pending in this regard.



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4. Heard both sides and perused the entire materials available in the form of typed set of papers.

5. It is relevant to note that the sixth respondent, having executed a document, now she cannot have any say in the matter, when the document has already been presented for registration by the purchaser by paying necessary stamp duty. Merely on the basis of subsequent protest petition, neither the Sub Registrar nor the District Registrar has any right to keep the document pending without registering the same. The action of the respondents in returning the document, which in fact gave undue advantage to the sixth respondent. Having executed the document, now it appears that she has also executed a transfer deed in the name of minor. These aspects in fact shall not take away the right of the petitioner. Since the document was executed in the year 2018, now other situation also arose, as the purchaser died. Now his wife is driven from pillar to post to see that the document is registered, as per law. When the District Registrar has not exercised the power, the appellate authority ought to have exercised such power. When the document has already been executed and thereafter, merely on the basis of some objections or protest petition at the relevant point of time, those petitions cannot be the reasons to deny the



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registration. In such view of the matter, the impugned order is liable to be set aside.

6. Accordingly, the writ petition is allowed. The impugned order passed by the fourth respondent dated 07.03.2022 is set aside. The second respondent is directed to pass an order on the appeal filed by the petitioner as against the refusal slip and such appeal shall be disposed of within a period of two months from the date of receipt of a copy of this order. No costs.

24.06.2024

Index : Yes / No
Neutral Citation : Yes / No
Asr

To

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St. George Fort, Chennai - 600 005
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4.The District Registrar (Administration)

O/o.The District Registrar
Chengalpattu - 603 002

5.The Sub Registrar

O/o.the Sub Registrar
Uthiramerur - 603 406

6.The Government Pleader

High Court, Madras

N.SATHISH KUMAR, J.



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