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W.P.No.34182 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM

THE HON'BLE **MS.JUSTICE P.T.ASHA**

W.P.No.34182 of 2024

Viswa

... Petitioner

Vs.

The Sub-Registrar,
Sirgazhi,
Sirgazhi Taluk,
Mayiladuthurai District.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus to direct the Respondent to register the certified copy of the plaint in O.S.No.31 of 2024 on the file of the District Munsif Court, Sirgazhi.

For Petitioner : Mr.R.Gururaj

For Respondent : Mr.B.Vijay
Additional Government Pleader

ORDER

Mr.B.Vijay, learned Additional Government Pleader takes notice on behalf of the Respondent.



W.P.No.34182 of 2024

WEB COPY

2. The Petitioner seeks for a mandamus to register the certified copy of the plaint in O.S.No.31 of 2024 on the file of the District Munsif Court, Sirgazhi.

3. The reasons for the above Writ Petition is set out in the affidavit for in support of the Writ Petition. The Petitioner would submit that the property measuring an extent of 498 sq.m or 5360 sq.ft. comprised in R.S.No.405/12 (T.S.No.102) with the superstructures thereon belonged to the Petitioner's father and he had purchased the same under a registered Sale Deed dated 11.08.2017. In a portion of the property one Mrs.Sedirethinam was in possession as a usufructuary mortgagee from the original owner under a registered Usufructuary Mortgage Deed dated 23.04.1977. The Petitioner's father had purchased the property from the legal heirs of Mr.Muthayyan and another portion was in the occupation of the tenant by name Mr.Muthayyan who was no more. The Petitioner's father had filed RCOP.No.5 of 2018 against the usufructuary mortgagee and RCOP.No.6 of 2018 against the tenant Mr.Muthayyan for eviction and the same is pending before the District



W.P.No.34182 of 2024

Munsif Sirgazhi. The Petitioner would submit that his sister and parents are living at Singaperumal Kovil and his junior paternal uncle has misguided his father into filing the rent control petition and his father had obtained a huge loan from the City Union Bank which is yet to be discharged and in the meanwhile the Petitioner's father passed away on 09.06.2021 leaving behind the Petitioner, his mother and sister as the surviving legal heirs. They have also filed a Suit for redemption of usufructuary mortgage and the same is pending. On the other hand the Petitioner's junior paternal uncle has created a 'Will' dated 12.05.2021 alleged to have been executed by the Petitioner's father and has filed a Suit in O.S.No.5 of 2022 for bare injunction against one Mayavan who has nothing to do with the property and has obtained a collusive and fraudulent decree. The Petitioner and his mother and sister has filed O.S.No.31 of 2024 on the file of the District Munsif, Sirgazhi to set aside the Judgement and Decree in O.S.No.5 of 2022. Since the Petitioner's junior paternal uncle was attempting to deal with the property, he had presented a copy of the plaint in O.S.No.31 of 2024 filed by the Petitioner and his mother and sister to set aside the decree in O.S.No.5 of 2022 before the Respondent. However, the Respondent refused to register the plaint. Therefore, the Petitioner is before this Court.



W.P.No.34182 of 2024

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5. The plaint is not compulsory registrable under Section 17 of the Registration Act, 1908 and there is no bar under the statute for a Sub registrar to entertain and register and consequently, reflect the same in the encumbrance. Section 18 of the Registration Act, 1908 provides for optional registration of documents. On the basis of the above provisions the Petitioner is seeking registration of the plaint. The Order of this Court in the case of P.Natarajan vs. The District Registrar, Puducherry and others rendered in W.P.No.10116 of 2017 was a case where also a plaintiff sought registration of the plaint. The learned Judge referring to provisions of Section 18 of the Registration Act, 1908 issued directions to the Petitioner to submit fresh representation to the Respondents and on such application of the Petitioner therein before the registering authorities, the registering authorities were directed to pass orders thereafter. In the Judgement and Decree reported in 2019 6 MLJ 372, in the case of N.Rajaram vs. R.Murali and Others, the learned Judge had suggested after *prima facie* observing that, there appears



W.P.No.34182 of 2024

to be a large scale collusion requiring a probe that, any proceedings relating to immovable property particularly suits for partition and/or specific performance and suit for a declaration of title over immovable properties etc. should be intimated to the jurisdictional Sub-Registrar and appropriate entries made in the registers so that it gets reflected in the Encumbrance Certificate.

6. In the light of the above discussions, the Writ Petition is allowed with a direction to the Respondent to register the certified copy of the plaint in O.S.No.31 of 2024 on the file of the District Munsif Court, Sirgazhi within a period of two (2) weeks of its representation. No costs.

13.12.2024

Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation :Yes/No
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WEB COPY



W.P.No.34182 of 2024

P.T.ASHA, J.

rgm

To

The Sub-Registrar,
Sirgazhi,
Sirgazhi Taluk,
Mayiladuthurai District.

W.P.No.34182 of 2024



WEB COPY



W.P.No.34182 of 2024

13.12.2024