



WEB COPY

W.P. No.35556 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.35556 of 2023 and
W.M.P. No.35501 of 2023

1. R.Mallika
2. I.Abdullah

... Petitioners

Vs.

1. The Joint 1-Sub Registrar
Coimbatore North Registration District
Syrian Church Road, Coimbatore - 641 001

2. Thangam Sidney

3. Syed Inaiyathulla

4. Rafi Nawaz

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus to call for the records of the 1st respondent in proceedings No.1533/U1/2023 dated 06.02.2023 and quash the same and consequently, direct the 1st respondent to forthwith register the Sale Deed dated 29.12.2022 presented by the petitioners.

For Petitioners : Mr.P.Saravana Sowmiyan

For R1 : Mr.R.Vigneshwaran
Government Advocate

**ORDER**

This Writ Petition is filed seeking a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in proceedings No.1533/U1/2023 dated 06.02.2023 and quash the same and consequently, direct the 1st respondent to forthwith register the Sale Deed dated 29.12.2022, presented by the petitioners.

2. The learned counsel for the petitioners submitted that the 1st petitioner's husband purchased the property bearing Plot No.29 in Maragadha Rajammal Layout comprised in SF No.592D/1A and 592D/2A to an extent of 4937 Sq.ft (11 cents 145 sq.ft.) situated at Kuruchi Village, Madukkarai Taluk, Coimbatore District, by virtue of registered Sale Deed bearing Document No.4264 of 1962 and after his death, the 1st petitioner is in possession of the property. Thereafter, the 1st petitioner in order to sell the said property, executed a Sale Deed dated 29.12.2022 and the same was presented for registration on 06.02.2023 before the 1st respondent. However, the 1st respondent refused to register the same and issued the refusal check slip by proceedings No.1533/U1/2023 dated 06.02.2023 stating that a perusal of the Encumbrance Certificate shows that the Doc. No.3485/2016 with respect to certain survey numbers has been registered based on the ex-parte



decree in O.S.No.1564/2015 in the case of Syed Inaiyathulla and Rafi Nawaz (respondents 3 and 4 herein) Vs. Maragadhammal and since several registration has been made in the subject property, he could not ascertain the true owner of the property. The learned counsel further submitted that neither the husband of the 1st petitioner nor the 1st petitioner alienated the property to any one and since they have no issues, no other legal heirs could have alienated the property. The respondents 2 to 4 without any title, right or interest in the subject property, have created illegal documents and the entries were also made in the revenue records. Therefore, the contention of the 1st respondent that the illegal entries casting cloud over the title of the property is baseless and that the alleged ex-parte decree is not a valid one. The 1st respondent by ignoring the other entries in the Register should have registered the document presented by the petitioners and instead of registering the same, he has passed the impugned order. Therefore, the present writ petition is filed challenging the impugned order.

3. Heard and perused the materials available on record.

4. The petitioner himself admitted that there are entries apart from the



petitioner's husband's sale deed entries. Therefore, the Joint Registrar after enquiry came to the conclusion that there are illegal entries in the Encumbrance Register and therefore, he is unable to find out the true owner of the property. Even otherwise, the enquiry under Section 77(A) of the Registration Act, is summary in nature. Now the issue regarding 77(A) of the Registration Act is pending before the Larger Bench of this Court and it is yet to be concluded.

5. Further, the Writ Court cannot conduct a roving enquiry to find out the true owner of the property and whether the entries made in the register are legal or illegal and valid or invalid. Neither the Registrar nor the Writ Court can decide the right and title of the parties. Only the Civil Court is the competent authority to decide the same. Under these circumstances, the petitioners are at liberty to work out their remedy before the Civil Court in the manner known to law.



6. Accordingly, the writ petition is dismissed. No Cost. Consequently connected Miscellaneous Petition is ordered subject to payment of separate Court fee by the other writ petitioner.

03.01.2024

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No



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To

The Joint 1-Sub Registrar
Coimbatore North Registration District
Syrian Church Road, Coimbatore - 641 001



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P.VELMURUGAN. J.

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