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W.P.No. 34990 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.11.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 34990 of 2024

Kasthuri

... Petitioner

Vs

1. The District Registrar,
New Pet, Krishnagiri 635 001.

2. The Sub Registrar,
Krishnagiri Joint II,
Thiruvannamalai Road,
Krishnagiri 635 001

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the concerned respondents to cancel the Doc. No 4111 / 2023 dated 16.10.2023 and remove the same from the entry of the book of Kishnagiri Joint II SRO in respect of the property comprised in Survey no. 92 New Sub - Division No. 92/9A in this Plot No 32 an extent of 1800 sq.ft of the Pedda Thalapalli Village, Krishnagiri Joint II Sub-Registrar, Krishnagiri Registration District.



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For Petitioner : Dr.G.Babu

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For Respondent 1 to 3 : Mr.P.Harish
Government Advocate

ORDER

The petitioner has sought a mandamus to the respondents to cancel the Document No.4111 of 2023 dated 16.10.2023 and remove the same from the entry in the Book of Krishnagiri Joint II SRO in respect of the property comprised in Survey No.92, New Sub Division No.92/9A in Plot No.32, measuring an extent of 1800 sq.ft, Pedda Thalapalli Village, Krishnagiri Joint II Sub Registrar, Krishnagiri Registration District.

2. The petitioner's contention is that the property originally belonged to her mother, Premila, by virtue of a registered Sale Deed dated 17.08.2000. The said Premila had died on 31.10.2010 leaving behind her surviving the petitioner's father, Kanagaraj, the petitioner's brothers, K.Thirulogasundar, K.Mahesh Babu and the petitioner as her



legal heirs. Out of love and affection, the petitioner's father and brothers had executed a Gift Deed in favour of the petitioner with reference to the above mentioned property and the same was registered on 21.06.2012 on the file of the Sub Registrar Office in Document No.2036 of 2012. The petitioner would submit that she is in possession and enjoyment of the property since then.

3. While so, one of the petitioner's brothers, Mahesh Babu, who had executed the Gift Deed, had filed a suit O.S.No.08 of 2023 on the file of the District Munsif, Krishnagiri seeking a partition of his 1/4th share in the property and to declare the Gift Deed dated 21.06.2012 as null and void. The said Mahesh Babu, who had full knowledge about the petitioner's address, failed to send the summons where the petitioner was living, but on the contrary, had sent it to his own address. The petitioner was therefore set *ex-parte*, however, the trial Court did not grant the relief claimed by the said Mahesh Babu. The trial Court held that the suit was barred by limitation and further, the



said Mahesh Babu was estopped from seeking a declaration against the Gift Deed which he himself had signed. Further, while preparing the decree, there was a typographical error in page No.3, which was rectified on 12.04.2024 on an application being made.

4. The petitioner would submit that her brother, Mahesh Babu had registered the pre-amended decree dated 22.08.2023 in O.S.No.08 of 2023 on 16.10.2023 on the file of the Krishnagiri Joint II SRO and the petitioner would submit that despite the decree now being modified, it is the old decree that has been reflected in the portals of the respondents. Therefore, the petitioner had given a representation dated 05.06.2024, along with the amended decree, requesting that the amended decree be reflected in the encumbrance certificate. However, by the impugned order dated 10.07.2024, the said request was turned down on the ground that the Document No.4111 of 2023 has been registered based on the judgment dated 22.08.2023 passed by the Civil Court and directed the petitioner to approach the appropriate Court for



cancelling the same. Therefore, the petitioner has approached this Court.

5. Heard the learned counsels on either side and perused the materials available on record.

6. The 1st respondent has totally failed to appreciate that the decree that has now been entered in the encumbrance certificate, has been later modified and the petitioner is only seeking to have the modified judgment and decree entered in the registers. The rejection on the ground that the petitioner should have approached the Civil Court is misconceived, as what has sought to be correctly displayed is only an amended decree. The order suffers from total non-application of mind, on the part of the registering authorities, by refusing to perform their statutory duties based on such whimsical and frivolous reasons which is also a cause for increasing docket explosion.



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7. Accordingly, the writ petition is allowed. It is made clear that, in the remarks column of the encumbrance certificate, the amended decree passed on 12.04.2024 will be extracted. There is no necessity to represent the certified copy, since it is available with the 2nd respondent. The 2nd respondent is directed to rectify the error made in Book of Krishnagiri Joint II S.RO, within a period of three weeks from the date of receipt of a copy of this order. No costs.

28.11.2024

Index: Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
srn

To,

1. The District Registrar,
New Pet, Krishnagiri 635 001.
2. The Sub Registrar,
Krishnagiri Joint II,
Thiruvannamalai Road,
Krishnagiri 635 001



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P.T.ASHA, J.,

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