



W.P.No.35926 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.35926 of 2024

V.Mathivanan

... Petitioner

Vs.

1.The Inspector General Of Registration
100, Santhome High Rd, Mullima Nagar,
Mandavelipakkam, Raja Annamalai Puram,
Chennai-028.

2.The Sub Registrar
Office Of Vandavasi, Theradi Street,
Vandavasi- 604 408.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, Call for the records of impugned order passed by the 2nd respondent in RFL/ Vandavasi / 1/ 2023, dated 22.08.223 and quash the same as illegal, arbitrary and non- est in law and consequently direct the 2nd respondent to register the executed settlement deed dated 19.07.2023 and release the registered settlement deed to the petitioner within the time stipulated by this Honble court.



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For Petitioner : M/s.S.Santosh

For Respondents : M/s.Shahjahan, Spl.GP,
for R.1 and R.2.

ORDER

Challenging the refusal check slip on the part of the 2nd respondent to register the settlement deed dated 19.07.2023, the petitioner is before this Court.

2. The subject property was originally owned and possessed by one Vasudeva Gounder who died on 07.11.2022 leaving behind him surviving his legal heirs Selvam, Porkodi and Mathivanan. The legal heirs of the said Vasudeva Gounder had partitioned the property under a registered partition deed dated 16.03.2005. The subject property which was described as the D schedule in the partition deed was allotted in favour of the Selvam and Mathivanan.

3. The petitioner would submit that he had executed a settlement deed dated 19.07.2023 settling his half share in the subject property in



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favour of his brother Selvam. The same was presented before the 2nd respondent for registration. However, the 2nd respondent had refused to register the settlement deed and directed the petitioner to approach the Civil Court as the petitioner's ownership and title was disputed.

4. The petitioner would submit that a mere perusal of the impugned refusal check slip revealed the shocking fact that the subject property along with other properties had been conveyed by one Elumalai and others in favour of one Venda under a registered sale deed dated 07.03.2011. Thereafter, those properties including the subject property were mortgaged to the ICICI bank on 30.03.2017 by creating a Memorandum of Deposit of Title Deeds.

5. The petitioner would submit that the revenue records would clearly establish that the petitioner's land are situate in SF.Nos.196/6 and 197/7 and the adjacent properties in S.Nos.196/1 to 196/5 stood in the name of Elumalai. The said Elumalai Gounder had fraudulently executed a sale deed dated 07.03.2011 in favour of Venda in respect of his properties



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along with the subject property. The 2nd respondent had registered the sale deed dated 07.03.2011 without verifying the title and ownership of the subject property and later, the vendors have mortgaged the subject property along with the other properties.

6. The petitioner would submit that the subject property continues to be in his family's possession from several decades. Therefore, challenging the impugned refusal check slip issued by the 2nd respondent the petitioner is before this Court.

7. Heard the learned counsel on either side.

8. The petitioner has traced his title to the property to one Vasudeva Gounder. The petitioner has provided the patta standing in the name of Vasudeva Gounder in respect of the property concerned and has also produced the A-Register which clearly describes that Vasudeva Gounder is the owner in respect of the lands comprised in S.Nos.196/6 and 196/7 and Elumani Gounder is shown as the owner in respect of the property



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comprised in S.Nos.196/1 to 196/5. Thereby, the petitioner has proved his title as well as enjoyment over the subject property. The impugned order does not take into account the above facts and has simply been passed stating that there is a dispute with reference to the title.

9. It has been time and again held as in the case of ***Ramayee Vs . The Sub Registrar and others - (2020 (6) CTC 697)***, remedy of the registering authorities while considering a document for registration is to verify its execution, identity of the executant or the agent/representative assigned etc. The registering authority cannot go into the question of title. Further, Section 22-A of the Registration Act, which is inserted by the Tamil Nadu Act 48 of 1997, sets out the grounds under which the Registering Authority could refuse the registration. The reason that is given in the impugned order does not come within any of the grounds given in Section 22-A of the Registration Act. Therefore, the impugned order is not sustainable. Further, the petitioner has also established his right to the property and he would be taking in the risk of there being another sale deed in respect of the property.



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10. Accordingly, the Writ Petition is allowed. The impugned refusal check slip dated 22.08.2023 is set aside. The 2nd respondent is directed to register and release the settlement deed dated 19.07.2023 within a period of 2 weeks from the date of its representation by the petitioner. No costs.

04.12.2024

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

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