



W.A(MD)No.234 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.02.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.A(MD)No.234 of 2024
and C.M.P(MD)No.2012 of 2024**

Prema ... Appellant/4th Respondent

vs.

1.V.Jayalakshmi ... 1st Respondent/Petitioner

2.The Inspector General of Registration,
Registration Department,
Santhome, Chennai. ... 2nd Respondent/1st Respondent

3.The District Registrar (Administration),
Palayamkottai,
Tirunelveli District. ... 3rd Respondent/2nd Respondent

4.The Sub Registrar,
Sub Registrar Office,
Kovilpatti,
Virudhunagar District. ... 4th Respondent/3rd Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 19.12.2023 passed in W.P(MD)No.30167 of 2023, on the file of this Court.



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For Appellant : Mr.I.Suthakaran
For Respondent No.1 : Mr.K.Govindarajan
For Respondent Nos.2 to 4 : Mr.S.Shanmugavel
Additional Government Pleader

JUDGMENT

[Judgment of the Court was made by D.KRISHNAKUMAR, J.]

This writ appeal is directed against the order of the learned Single Judge, dated 19.12.2023, passed in W.P(MD)No.30167 of 2023.

2.The facts leading to the filing of the Writ Appeal are as follows:

The first respondent/writ petitioner, who is the mother-in-law of the fourth respondent, has filed a Writ Petition in W.P(MD)No.30167 of 2023, to quash the impugned refusal check slip passed by the third respondent, dated 30.11.2023 and to register the gift deed presented by the first respondent/writ petitioner on 29.11.2023.



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3.The learned Single Judge by order dated 19.12.2023, allowed the Writ Petition wherein it is stated as follows:

'2. The petitioner is none other than the mother-in-law of the fourth respondent. The petitioner's son Kesavan passed away. It is stated that Kesavan had borrowed money from his sister's husband namely Sagadevan. In order to ensure that there is no strain in their relationship, the petitioner wants to settle her undivided 1/2 share in the property in favour of his daughter namely Janaki. The original document in respect of the property is in the custody of the fourth respondent. The fourth respondent is declining to part with the same. When the petitioner presented the settlement deed for registration before the third respondent, registration was refused on the ground that the original parent deed was not produced. To this effect, the refusal check slip was also issued. Challenging the same, the writ petition came to be filed.

3. The issue is no longer res integra. A learned Judge of this Court had held that if the title document is in the custody of one co-owner and he or she is declining to part with the same, that cannot lead to refusal of the registration of the document presented by the other co-owner in respect of his or her share. IG of Registration has also issued circular dated 02.02.2023 in this regard. The petitioner is permitted to submit a formal representation before the second respondent. The second respondent will issue notice to the fourth respondent. The scope of the enquiry by the second respondent is rather limited. All that the second respondent has to see is whether the petitioner is conveying only her undivided half share in the property. He may also call upon the fourth respondent to make the statement if the



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original document is with her. If that be so, the second respondent will issue appropriate instructions to the third respondent in registering the document that may be re-presented. This exercise shall be completed by the second respondent within a period of six weeks from the date of submission of the representation by the petitioner herein. Based on the instructions to be given by the second respondent, the third respondent will receive the settlement deed, register it and release it subject to fulfillment of other usual formalities.

4. The Writ Petition is allowed on these terms. No costs.'

Aggrieved over the same, the instant Writ Appeal has been filed by the appellant/fourth respondent.

4.The learned counsel appearing for the appellant/fourth respondent would submit that though the appellant is arrayed as fourth respondent in the Writ Petition, service of summon was dispensed with and the said Writ Petition was allowed. Only after receipt of summon from the third respondent, the appellant came to know about the Writ Petition and the presentation of the settlement deed by her mother-in-law. The entire case of the writ petition was projected as if the appellant's husband obtained hand loan from his sister to the tune of Rs.2,50,00,000/- for



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construction of a marriage hall, which is totally false and in fact, the said marriage hall was constructed after obtaining loan from the Bank. Further, the first respondent also filed a suit in O.S.No.129 of 2023 on the file of the District Court, Thoothukudi, against the appellant seeking for partition and the same is pending. When that being so, the first respondent filed the Writ Petition for registration of settlement deed to settle her undivided ½ share in the property in favour of her daughter and the said writ petition was allowed, which is challenged in the present Writ Appeal.

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

6.We had gone through the entire facts. When a suit is pending, based on the order passed by this Court the Sub Registrar has registered any settlement deed, the same cannot have a binding effect on the civil suit, which is filed by the first respondent/writ petitioner in O.S.No.129 of 2023 on the file of the District Court, Thoothukudi. The said suit can be decided independently, without being uninfluenced by the order passed by this Court.



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7. Accordingly, the Writ Appeal is disposed of. No costs.
Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] [R.V.,J.]
16.02.2024

NCC : Yes / No
Index : Yes / No
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To

1. The Inspector General of Registration,
Registration Department,
Santhome, Chennai.
2. The District Registrar (Administration),
Palayamkottai,
Tirunelveli District.
3. The Sub Registrar,
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and
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ps

ORDER MADE IN
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DATED : 16.02.2024