



W.P(MD)No.2400 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.2400 of 2024

and

W.M.P(MD)No.2407 of 2024

1.R.Gopinath

2.R.Ilangovan

... Petitioners

Vs.

1.The District Registrar Officer,
Kumbakonam,
Thanjavur District.

2.The Joint – I Sub Registrar Office,
Kumbakonam,
Thanjavur District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the first respondent refusal No.RFL/Joint-I Sub Registrar Kumbakonam by order dated 25.01.2024 and quash the same and consequently direct the second respondent to register the sale deed in respect of S.No. 90/1, Annal Agraharam Village, Kumbakonam Taluk, Thanjavur District.



W.P(MD)No.2400 of 2024

For Petitioners : Mr.R.Murali
For Respondents : Mr.R.Ragavendran
Government Advocate

ORDER

Heard both sides.

2.The writ petitioners presented sale deed dated 23.01.2024 executed in favour of Thiru.K.Subramaniyan before the second respondent. The petitioners trace their title to settlement deed dated 29.12.2006 bearing Doc.No.4565 of 2006 executed by their grandfather Thiru.S.Periyasamy in favour of his children. The petitioners' father Rajaraman was one of them. The said settlement deed was assailed by one N.Periyasamy before the first respondent herein. The first respondent herein vide order dated 16.03.2023 characterise the said document as fraudulent. Subsequently, civil suit has also been instituted by the said N.Periyasamy against the settlees under the document. The suit is still pending. Citing the aforesaid reasons, registration was refused and impugned refusal check slip was issued. Challenging the same, the present writ petition came to be filed.



W.P(MD)No.2400 of 2024

3.The learned counsel appearing for the petitioners reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned refusal check slip and grant relief as prayed for.

4.The second respondent has filed detailed counter affidavit and the learned Government Advocate took me through its contents. He drew my attention to paragraphs 5 and 7 of the counter affidavit. They are as follows:

“5) It is submitted that in the above statement deed bearing Document No.4565 of 2006, the above said S.Periyasamy Padiachi, S/o.Samu Padiachi settled various properties infavour of his 4 sons which includes Rajaraman for the property comprised in R.S.No.90/1. It is submitted that an individual by name N.Periyasamy, S/o.Late Natesan preferred a complaint before the 1st Respondent on 06.04.2022 under Section 77A of Registration Act in respect of property comprised in S.No.215/3, Mathi Village, Kumbakonam Taluk, Thanjavur District. In the said complaint the above said N.Periyasamy, S/o.Natesan claimed title and opposed the registration of settlement deed by S.Periyasamy Padiachi, S/o.Samy Padiachi dated 29.12.2006 bearing Document No.4565 of 2006. The District Registrar in



W.P(MD)No.2400 of 2024

terms of the power conferred upon him under Section 77A of Registration Act, arrived a conclusion that S.No. 215/3, having an extent of Hectare 0.36.5 Ares, Mathi Village, is belongs to N.Periyasamy, S/o.Natesan and hence arrived a conclusion that the settlement deed executed by S.Periyasamy Padiachi, S/o.Samu Padiachi in favour of his son. Rajendran is illegal and thereby declared the Document No.4565 of 2006 as illegal in terms of Section 77A of the Act. Further in this regard the 1st Respondent directed to record the same under Annexure II of the Department Registrar. Accordingly, the settlement deed bearing Document No.4565 of 2006 was recorded as cancel in the relevant records of this office. Further the 1st Respondent directed this office not to registered any document tracing title through Document No.4565 of 2006.

6) ...

7) It is submitted that the averments made in para 2 to 5 of the affidavit are specifically denied. Even though the sale deed executed by the Petitioners relates to S.No.90/1, of Annal Agraharam Village is different from S.No.215/3 of Mathi Village which is claimed by 3rd party by name N.Periyasamy, in terms of orders of District Registrar the Refusal Cheque Slip was issued and hence the same is valid. This Respondent is duty bound to follow the orders of 1st Respondent. There is no merits in the claim of the Writ Petition.”



W.P(MD)No.2400 of 2024

The learned Government Advocate called upon this Court to dismiss the writ petition.

5.I carefully considered the rival contentions and went through the materials on record.

6.No doubt the settlement deed executed by the petitioners' grandfather in the year 2006 had been characterised as fraudulent at the instance of N.Periyasamy. It is not as if N.Periyasamy was aggrieved by the entire settlement deed. His only grievance was that in the settlement deed executed by the petitioners' grandfather, Survey No.215/3 of Mathi Village had been fraudulently included. The District Registrar, Kumbakonam found merit in the claim made by Thiru.N.Periyasamy. But the petitioners herein had made it clear that the present sale deed has nothing todo with the said land. The present sale deed is in respect of Survey No.90/1, Annal Agraharam Village. In fact, in paragraph 7 of the counter affidavit itself, this fact has been conceded by the second respondent.

7.After the petitioners' grandfather executed the settlement deed, the petitioners' father had executed settlement deed dated 17.03.2008



W.P(MD)No.2400 of 2024

(Document No.1179/2008) in favour of the petitioners herein. In as much as the subject transaction is not going to affect in any way the interest of right of N.Periyasamy, it can very well be allowed to go on. In this view of the matter, the impugned refusal check slip is quashed. The petitioners are permitted to re-present the document. It shall be registered by the second respondent and released subject to the fulfilment of the other usual formalities.

8.This writ petition is allowed on these terms. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

24.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
MGA

To

- 1.The District Registrar Officer,
Kumbakonam,
Thanjavur District.
- 2.The Joint – I Sub Registrar Office,
Kumbakonam,
Thanjavur District.



WEB COPY



W.P(MD)No.2400 of 2024

G.R.SWAMINATHAN,J.

MGA

W.P(MD)No.2400 of 2024

24.07.2024