



W.P(MD)No.8863 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.07.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.8863 of 2024
and
W.M.P.(MD)No.8071 of 2024

Balasubramanian

... Petitioner

Vs.

- 1.The Inspector General of Registration,
Department of Registration,
No.100, Santhome,
Raja Annamalaipuram,
Chennai-600 028.
- 2.The Deputy Inspector General of Registration,
Department of Registration,
Madurai Region,
Y.Othakadai,
Madurai-625 107.
- 3.The District Registrar (South),
Department of Registration,
No.171, Palace Road,
Madurai-625 001.
- 4.The Sub Registrar,
Joint-4 Sub Registrar-Madurai South Office,
Palanganatham,
Madurai.



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5.M.Senthil Kumar,
working as Sub Registrar,
Joint-4 Sub Registrar-Madurai South Office,
Palanganatham,
Maduari.

6.V.R.Nagasubramanian

7.S.Thamaraiselvi

8.S.Thenmozhi @ Pichai Ammal

9.N.Nagarajan

10.P.Sivakumar

11.A.Kumar

12.S.Muneeswaran

13.S.Om.Siddharthan

14.T.Karthick

15.Nalini

16.A.Mohamed Assan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in relation to the impugned order of 2nd respondent vide Na.Ka.Yen.7311/AA4/2023 dated 16.08.2023 and 16.10.2023, 3rd respondent vide No.3539/AA1/2023 dated 12.07.2023 and 4th respondent impugned Refusal Order vide pending Document No.

<https://www.mhc.tn.gov.in/judis>



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P52/2023 dated 17.03.2023 and RFL/4 Joint Sub Registrar, Madurai South/BOOK-2/2 and quash the same as illegal and consequently to direct the 4th respondent to register the sale deed vide No.P/52/2023 on the file of 4th respondent and subsequently direct them to register the same in Book - 1 maintained at Joint Sub Registrar No.IV, Madurai South, Madurai within a stipulated time as fixed by this Court.

For Petitioner : Mr.C.Masilamani

For Respondent : Mrs.D.Farjana Ghoushia
Special Government Pleader for R1 to R4

: Mr.R.Ramanujam
for M/s.Gandhi Associates for R5

: Mr.B.Chandramohan for R10

: Mr.M.R.Sreenivasan for R12 & R13

: no appearance for R7, R9, R15 & R16

ORDER

Heard both sides.

2. The basic facts are as follows:-

One Ramachandra Pillai owned certain items of properties including the petition mentioned land. He got married to one Nallammal. Two sons (Naga



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Subramanian and Villayutham) and three daughters (Nagalakshmi, Nagarathnam & Pachavarnam) were born through the wedlock. After the demise of Ramachandra Pillai, there was partition among Nallammal, Nagasubramanian and Villayutham in the year 1983 (Document No.3142 of 1983). The properties were divided into three schedules (A, B & C). 'B' schedule was allotted to Nagasubramanian. 'C' schedule was allotted to Villayutham. Nallammal was given life interest in 'A' schedule property. 'A' schedule was to go in favour of the two sons after the demise of Nallammal. Nagarathnam and Panchavarnam had witnessed the deed of partition. Nallammal died on 12.01.1998. Villayutham passed away on 29.02.1996. Nallammal had executed a registered Will dated 07.10.1997 (Document No.366 of 1997). In the said Will, Nallammal had mentioned that Villayutham died bachelor and interstate. She thus claimed that 'C' schedule property had devolved on her. Nallammal bequeathed her entire properties in favour of Thamarai Selvi D/o.Nagalakshmi who had married Nagasubramanian. In the Will, she had described her share as 1/3 undivided share. Be that as it may, Nagasubramanian, Thamaraiselvi, Thenmozhi @ Pitchaiammal and Nagarajan executed the sale deed dated 24.02.2023 in favour of Balasubramanian / writ petitioner herein and conveying the petition mentioned property totally measuring 50 cents before the fourth respondent. The document was kept as a pending document. Eventually, registration was refused. The



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following reasons have been set out in the impugned refusal check slip:-

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(A) The parent document had not been produced in original

(B) Alagammal and Nalini who are co-owners of the property have not joined the transaction.

(C) Non-traceable Certificate has not been produced.

(D) The petition mentioned property is the subject matter of a prior mortgage transaction. Challenging the same, this writ petition has been filed.

3. The learned counsel appearing for the petitioner 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 order and grant relief as prayed for.

4. The learned Special Government Pleader appearing for the official respondents submits that the impugned order is well reasoned and that it does not call for interference.

5. The learned counsel appearing for R10 and the learned counsel appearing for the 12th & 13th respondents vehemently contest the claim advanced by the petitioner. The respondents 12 & 13 have purchased the portion of the petition mentioned properties. They pressed for dismissal of the writ petition.



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on record.

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

7. The objection raised by the 10th respondent may be dealt with at first. The petitioner entered into sale agreement with the 10th respondent on 01.03.2023. It was presented for registration. It was also kept as a pending document (Document No.P56 of 2023). The 10th respondent has given a criminal complaint against the petitioner and the petitioner appears to have been arrested in that case. Be that as it may, the 10th respondent may not have locus standi to contest this writ prayer. In fact, if he does so, he would imperil his own rights. The 10th respondent can establish his claim, only if the petitioner succeeds in the writ petition and not otherwise. Likewise, R12 & R13 cannot also have sustainable claim. Admittedly, Nagasubramanian was a party to the sale deed dated 24.02.2023. The sale deed in favour of the 12th respondent was executed on 29.08.2023. The sale deed in favour of the 13th respondent was executed on 29.09.2023. These are subsequent transactions. Having executed the sale deed in favour of the petitioner on 24.02.2023, Nagasubramanian did not have any subsisting interest to convey in favour of R12 & R13. I therefore do not find any merit in the objections putforth by R12 & R13.



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8. Now let me test the validity of the impugned refusal check slip. Reason No. 1 may not hold good. A learned Judge of this Court in *Sivanadiyan Vs. The Sub Registrar, Pudukotttai (2021 2 CTC 526)* had held that the registering authority ought not to insist on production of the parent deed in original. Reason No.4 is also not sustainable. Subsistence of an earlier mortgage cannot operate as bar for execution of sale deed. Reason No.3 is also not sound. It has been convincingly established that the non-traceable certificate is already available with the registering authority. Finally, I come to reason No.2. According to the petitioner, his vendors were competent to convey the petition mentioned property in his favour. Admittedly, the petition mentioned property was part of 'A' schedule. I went through the contents of the partition deed of the year 1983. Nallammal had only life interest in the property. After her demise, it was to devolve in favour of her sons in equal shares. Admittedly, Villayutham passed away. In the Will executed by Nallammal, it has been mentioned as Villayutham died a bachelor and intestate. In the impugned refusal check slip, it has been mentioned that Alagammal and Nailini are the wife and daughter of Villayutham and that they are also co-owners of the property. Nalini appears to have given an objection petition before the registering authority. In the impugned order, it has been mentioned that she originally entered appearance through counsel but later did not appear. In this writ petition, Nalini



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has been impleaded as the 15th respondent. She has been served. But she has not chosen to contest the writ prayer. Alagammal has not been made as a party in this writ petition. In these circumstances, I am not able to render any definite finding as to whether Villayutham died bachelor or whether he did not leave behind any legal heirs.

9. In this view of the matter, in view of the aforesaid reasons, the matter is remitted to the file of the **(*)third respondent**. The **(*)third respondent** will issue fresh notice to Nalini and Alagammal. The petitioner will have to take out paper publication. If Nalini and Alagammal appear before the **(*)third respondent** and furnish materials to show that they are the wife and daughter of the deceased Villayutham, the petitioner will then claim only 50% of the share in the petition mentioned property. But then, the petitioner will have to work out his rights in the manner known to law. If Alagammal and Nalini fail to appear or even after appearance, they do not produce any material in support of their claim, the petition mentioned document shall be registered by the **(*)third respondent**. The entire exercise shall be completed by the fourth respondent within a period of three months from the date of receipt of a copy of this order.



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10. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

**(*)Substituted as per the order of this court
dated 03.10.2024 made in WP(MD)Nos.8862 &
8863 of 2024.**

Sd/-

Assistant Registrar(CS III)

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/10/2024

Sub Assistant Registrar()

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To

To be substituted to the order which is already despatched on 27.09.2024

1.The Inspector General of Registration,
Department of Registration,
No.100, Santhome,
Raja Annamalaipuram,
Chennai-600 028.

2.The Deputy Inspector General of Registration,
Department of Registration,
Madurai Region,
Y.Othakadai,
Madurai-625 107.



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3.The District Registrar (South),
Department of Registration,
No.171, Palace Road,
Madurai-625 001.

4.The Sub Registrar,
Joint-4 Sub Registrar-Madurai South Office,
Palanganatham,
Madurai.

5.M.Senthil Kumar,
working as Sub Registrar,
Joint-4 Sub Registrar-Madurai South Office,
Palanganatham,Maduari.

+1 CC to M/s.M.R.SREENIVASAN, Advocate (SR-37420[F] dated 25/07/2024)

+1 CC to M/s.C.MASILAMANI, Advocate (SR-56298[F] dated 04/10/2024)

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24.07.2024

MGJ(12.09.2024) 10P 7C

MK(04.10.2024) 10P 8C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023