



W.P.(MD) No.9209 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD) No.9209 2023

P.Rajan

...Petitioner

-VS-

1.The District Registrar,
Office of the District Registrar,
Tirunelveli District.

2.The Sub-Registrar,
Pettai,
Tirunelveli District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus, directing the second respondent to complete registration of the settlement deed dated 23.09.2022 as per the order of the first respondent dated 23.12.2022 by rectifying the online mistake by considering the petitioner's representation dated 22.02.2023 and release the original document within a stipulated period of time fixed by this Court.

For Petitioner : Mr.H.Arumugam
For Respondents : Mr.P.Veera Kathiravan
Additional Advocate General III
assisted by Mr.C.Satheesh
Government Advocate



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ORDER

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The petitioner has filed this writ petition to direct the second respondent to complete the registration of the settlement deed dated 23.09.2022 as per order of the first respondent dated 23.12.2022 by rectifying the online mistake by considering the petitioner's representation dated 22.02.2023 and release the original document within a stipulated period of time fixed by this Court.

2.It is the case of the petitioner that the petitioner's brother one Kanimurugan has executed a settlement deed in respect of his half share in the property in question and the registration was completed on a special attendance. The execution was completed and the document is also executed in favour of the petitioner on 23.09.2022. Thereafter, the executant died on 25.09.2022. However, the document was not released, on the ground that the online thumb impression of the settlee and the thump impression found in the Adar Card do not match. Thereafter, the first respondent had directed the second respondent to set right the online mistake through the Company TCS. Despite the same, the said mistake has not been set right and the document has not been released. Hence, the petitioner seeks a direction.



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3.The respondents filed counter to the effect that the document was sought to be registered on a special attendance. Copy of the settlement deed is also uploaded through online and token was generated. The Sub Registrar also visited the residence of Kanimurgan and after ascertaining the mental status of the said Kanimurugan, the second respondent completed the formalities and in the presence of two independent witnesses on 23.09.2022, the document has been executed. However, due to the wrong details in the Aadhaar card, an error has occurred in the online process of registration and hence, the petitioner was instructed to get the Aadhaar Card corrected and come back.

4.In the meanwhile, the petitioner's brother died on 25.09.2022. Therefore, on 10.11.2022, the petitioner in order to obtain re-token applied through online, where he entered the name of another witness, since one of the witnesses signed in the settlement deed at the time of execution, went out of the State and hence, again the registration was not accepted in online.



8. Heard the learned counsel appearing on either side and perused the materials placed on record.

9. It is not disputed that the petitioner's brother has executed the settlement deed in favour of the petitioner. The execution and the identity of the petitioner's brother are also not disputed. The execution has taken place in the presence of the Sub Registrar on a special attendance as contemplated under Section 31 of the Registration Act. While executing the document, the attesting witnesses also signed as mandated under Law. Once the attesting witnesses are present and signed in the document along with the executant, the execution in favour of the petitioner is completed as per law.

10. Normally, when the special attendance is sought under Registration, all the formalities have been entered in the relevant register. The entries will be made in all the original index register. This aspect is also not disputed. Therefore, once the registration is completed on a special attendance, it has to be held that the registration is completed. Merely because, the system has not accepted the Aadhar card of the settlee while the documents are uploaded in online later, it cannot be



stated that only the execution was completed on a special attendance and the document has to be presented for registration again. This statement infact goes against the very Act itself.

11. Section 32 of the Registration Act makes it clear that the document except in the cases mentioned in [sections 31, 88 and 89] [Substituted by Act 39 of 1948, Section 3, for "section 31 and section 89" (w.e.f. 3.9.1948)], every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration office.

12. The above section makes it very clear that after completion of the Registration on a special attendance under Section 31 of the Act, it cannot be stated that the document has to be once again presented for registration before the same registration authority. If such interpretation is given, it will affect the very purpose of Section 31 of the Act.

13. In such view of the matter, as the registration is completed on a special attendance, merely on the basis of some technical errors occurred later while uploading the document, the same cannot be a ground to keep



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the documents pending or direct the parties to once again execute the document. It is relevant to note that the executatnt, after completion of the registration on special attendance, died later. Therefore, once again insisting the petitioner to present the document in fact defeat the very execution itself.

14. In view of the above, the respondents are directed to make necessary entries in the register maintained for this purpose and make necessary endorsement with regard to the execution of the document.

15. At this juncture, it is stated that all documents are now with the petitioner, since the same was returned without any entries. Hence, the petitioner is directed to present the same before the respondents forthwith. On such presentation, necessary endorsement shall be made within a period of one week from the date of receipt of a copy of this order.

16.10.2024

Index : Yes / No
Internet : Yes / No
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To
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N.SATHISH KUMAR, J.

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