



W.P.(MD)No.12074 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 09.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.12074 of 2022
and W.M.P.(MD)No.8582 of 2022

1.Banumathi
2.R.Jesudhasan

... Petitioners

Vs.

1.The Sub-Registrar,
Registration Department,
Radhapuram, Tirunelveli.

2.Sharjan Realities Private Limited and
Shub Priority South Private Limited,
Rep. through its Authorised Person I.Indran

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 1st respondent in pending Document No.47/2022 dated 21.03.2022 and quash the same and consequently direct the 1st respondent to issue the certificate of registration of the settlement deed in favour of 2nd petitioner and return the document within the time fixed by this Court.



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For Petitioners : Mr.H.Arumugam
For Respondents : Mr.P.Subbaraj,
Spl. Govt. Pleader for R1
Mr.C.Varkeesh Kumar for R2

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 1st respondent in pending Document No.47/2022 dated 21.03.2022 and quash the same and consequently, direct the 1st respondent to issue the certificate of registration of the settlement deed in favour of 2nd petitioner and return the document within the time fixed by this Court.

2. Heard the learned counsel for the petitioner, the learned Special Government Pleader appearing for the first respondent and the learned counsel appearing for the second respondent and perused the materials available on record.

3. It is the case of the writ petitioners that the subject property is an ancestral property. The first petitioner has executed a settlement deed dated 11.03.2022 in favour of his son, viz., the second petitioner. When the same was



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presented for registration, the first respondent refused to register the same on the ground that the second respondent has given an objection petition. Challenging the same, the petitioner has filed this Writ Petition.

4. It is relevant to note that as far as registration is concerned, the title cannot be decided by the Sub Registrar. Rights of parties will be governed based on the their title and the earlier documents. In such view of the matter, merely on the basis of some protest petition, the document cannot be refused to be registered. This aspect has been elaborately dealt by this Court in ***Subramani Vs. 1.The Sub-Registrar, Office of the SubRegistrar, Rasipuram. 2. The Inspector General of Registration, Chennai [W.P.No.11056 of 2024, dated 26.04.2024]*** wherein it has been held as follows :

“In a judgment of this Court in the case of Abdullasa v Inspector General of Registration reported in 2021 2 CWC 451, this Court held that the Registrar cannot refuse to register the document on the basis of objections raised by a rival claimant, who has a different source of title. Similarly, the Hon'ble Apex Court in the case of Satya Pal Anand v. State of M.P., reported in (2016) 10 SCC 767 has held that an enquiry into the title of the executant is beyond the powers of the Sub Registrar. Therefore, in view of the law declared in this regard, merely on the ground of protest petitions and objections raised by some third party, the document cannot be refused to be registered.”



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In view of the above settled position of law, the document cannot be refused to be registered on the basis of a protest petition. Hence, the impugned Order has to be quashed.

5. Accordingly, this Writ Petition is allowed and the impugned Order passed by the first respondent dated 21.03.2022 is quashed and the first respondent is directed to register the settlement deed dated 21.03.2022 presented by the petitioners within a period of fifteen days from the date of receipt of a copy of this Order. No costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes/No
vsm



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To
The Sub-Registrar,
Registration Department,
Radhapuram, Tirunelveli.



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N.SATHISH KUMAR, J.

vsm

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