



WP(MD). No.13494 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 09/08/2024

CORAM

The Hon`ble Mr.Justice N.SATHISH KUMAR

WP(MD). No.13494 of 2022
and WMP(MD) No.9589 of 2022

1. Alageswari,
2. Rajanandhini

... Petitioners

Vs

1. The District Registrar,
Office of District (Administration)
Registrar Office, Palani,
Dindigul District..
2. The Sub-Registrar,
Office of the Sub-Registrar,
Chathirapatti, Palani, Dindigul District..
3. Kuppusamy. K.N,
S/o. (Late) Nachimuthu Gounder, No.126,
Main Road, Lakshmipuram, Palani,
Dindigul District..
4. Chellamuthu. N,
S/o. (Late) Nachimuthu Gounder, North
Street, Pottampatti, Kanakkampatty,
Palani Taluk, Dindigul District..

... Respondents



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PRAYER :-Writ Petition filed under Article 226 of Constitution of India, praying this Court to issue of Writ of Certiorari, to call for the records in pursuant to the impugned order passed by the 1st respondent vide in Na.Ka. No.4837/E1/2021 dated 07.06.2022 and to quash the same as illegal.

For Petitioners : M/s. Ramanathan.An,
For Respondents : Mr.P.Subbaraj for R1 & R2
Spl. Government Pleader
Mr.D.Venkatesh for R3
Mr.M.Suresh for R4

ORDER

Challenge has been made to the impugned order dated 07.06.2022, wherein, the District Registrar directed the entry to the effect that no further document should be registered on the basis of the settlement deed already registered in the year 2021.

2. A complaint has been given to the District Registrar by the third respondent to the effect that the 4th respondent has dealt with the shares of the property also in the gift deed executed in favour of his wife and one Raja Nandhini, who happened to be the daughter of the third respondent herein. It is his case that the property was purchased in the name of the 3rd and 4th respondent to an extent of 3 acres 91 cents.



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However, the 4th respondent has executed a gift deed in respect of the entire land. Therefore, according to him, the transaction is a fraudulent transaction, whereas, the learned counsel contended that there was a family arrangement in the family. Though the property has been purchased in the name of two brothers, namely, the 3rd and 4th respondents, the property fell into the share of the 4th respondent and revenue records have also been mutated. Therefore, a gift deed came to be executed.

3. The learned counsel for the respondents 3 and 4 would mainly contend that orders have been passed based on the circular issued under Section 68(2) of the Registration Act, 1908 and the said circular is also held to be valid by this Court. Therefore, no interference is warranted to the order impugned.

4. At the outset, this Court is of the view that the power to issue a circular under Section 68(2) of the said Act itself is not proper. In ***Rajasulochana and others made in W.P 29706 of 2024 dated 16.04.2024***, this Court has elaborately dealt with the power of the



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registering authority under Sections 68 and 69 with regard to conferring power upon the Registrar of superintendence and control all the acts of the Sub-Registrar. Sub-Section 2 of Section 68 empowers the Registrar to issue any order consistent with the Act, which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him. Such power cannot be extended to cancel the documents. Further the Apex Court in *Satya Pal Anand v. State of M.P.* [2016 10 SCC 767] held that any circular with regard to the transaction cannot be issued by the authority under Sections 68 and 69.

5. In such view of the matter, merely on the basis of the circular, District Registrar cannot go into the issue of title. The very contention raised by the parties indicated that there are disputed questions of facts. The petitioner alleges that there was a family arrangement, which has been effected and acted upon. Of course, it has been denied by the third respondent.

6. In such view of the matter, it is for the civil court to decide the issue and not by the registering authority. If really there was a family



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arrangement, which has been acted upon, then the transaction will automatically valid legally. In such view of the matter, let the parties agitate their rights before the competent civil court. If at all the third respondent claims right, it is open to him to file a suit for partition. No costs.

7. With the above direction, the writ petition is disposed of. No costs. Consequently connected Miscellaneous Petition is closed.

09.08.2024

RR

TO

1. The District Registrar,
Office of District (Administration)
Registrar Office, Palani, Dindigul
District..
2. The Sub-Registrar,
Office of the Sub-Registrar,
Chathirapatti, Palani, Dindigul
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N.SATHISH KUMAR,J

RR

**ORDER
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