



W.P(MD)No.12525 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.12525 of 2023

and

W.M.P.(MD)Nos.10583 & 10585 of 2023

1.R.Muthuramalinagm

2.R.Madasamy

... Petitioners

Vs.

1.The Deputy Inspector General of Registration,
O/o. the Inspector General of Registration,
Ramanathapuram Region, Ramanathapuram-623501.

2.The District Registrar (Admin),
O/o. The District Registrar,
Ramanathapuram District, Vandikara Street,
Ramanathapuram-623501.

3.The Sub Registrar,
Mudukulathur, Mudukulathur Taluk,
Ramanathapuram District.

4.K.A.Mohammed Iqbal

... 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 pertaining to the impugned order passed by the respondents 1 and 2 in Na.Ka.No.897/Aa1/2023, dated 26.04.2023 and Na.Ka.No.3001/Aa1/2021,



W.P(MD)No.12525 of 2023

dated 18.07.2022 respectively and quash the same as ultravires and consequently, to direct the respondents to adhere to the outcome of the title suit in O.S.No.73 of 2019 on the file of the Subordinate Court, Mudukulathur.

For Petitioners : Mr.P.Subbiah
For R1 to R3 : Mr.C.Satheesh,
Government Advocate
For R4 : Mr.K.Chengizkhan

ORDER

Heard both sides.

2.It is the case of the petitioners that one Ummasalima Beevi created a usufructuary mortgage with respect to northern portion of 5.62 acres in Survey No.142/1, situated at West Mudukulathur Village in favour of the petitioner's father on 11.02.1969. Though the boundaries of the property were correctly mentioned, the survey number of the property was wrongly mentioned as Survey No.140/3 instead of 142/1 in the mortgage deed. The southern portion of Survey No.142/1 was belonged to one Abdul Qudhose Rowther, who executed a power deed dated 14.05.1982 in favour of the said Ummasalima Beevi. The petitioners purchased the entire land in Survey No.142/1 from the said Ummasalima Beevi and the sons of Abdul Qudhose Rowther through a



registered sale deed in Document No.628 of 1992. From the date of purchase, the petitioners were in possession and enjoyment of the property in question and joint patta was also issued in favour of the petitioners. Thereafter, the petitioners partitioned their joint properties including the property in question through a partition deed dated 05.07.2017. At the time of registration, the petitioners have mentioned the correct survey number in the partition deed.

3. When the matter stood thus, the 4th respondent filed a petition, seeking cancellation of the partition deed to the 2nd respondent, who in turn, vide order dated 25.06.2018, directed the 4th respondent to approach the revenue authorities and the Court for appropriate relief. Thereafter, the 4th respondent approached the Revenue Divisional Officer, Paramakudi, alleging that SLR in respect of the property in question stood in the name of his paternal grandfather, Mohammed Rowther, however, the patta was wrongly issued in the petitioner's name. Therefore, the Revenue Divisional Officer, Paramakudi, vide order dated 16.07.2019, directed to restore the patta as it was during UDR. Thereafter, the 4th respondent once again filed a petition before the 2nd respondent, seeking cancellation of the partition deed. The 2nd respondent, vide order dated 18.07.2022, declared the partition deed as fraudulent one. On appeal, the 1st respondent also confirmed the order of the 2nd respondent, vide



W.P(MD)No.12525 of 2023

order dated 26.04.2023. Challenging the same, the petitioners have filed this Writ Petition.

4.At the outset, the very dispute is only with regard to the mistake in the survey number and description, not with regard to the identity of the persons. The same has to be seen only on the proof, not merely based on the allegations. Further, the Registering Authority has no power to go into all these transactions, as per *Satya Pal Anand v. State of M.P.[2016 10 SCC 767]* and **G. Rajasulochana v Inspector General** made in W.P 29706 of 2024 dated 16.04.2024.

5.In view of the above settled position of law, the impugned orders passed by the respondents 1 and 2 dated 26.04.2023 and 18.07.2022 respectively, are quashed and this Writ Petition is allowed. The parties are directed to workout their remedy in the pending suit in O.S.No.73 of 2019, on the file of the Sub Court, Mudukulathur. No costs. Consequently, connected miscellaneous petitions are closed.

29.08.2024
(2/2)

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Yuva



W.P(MD)No.12525 of 2023

WEB COPY

To

- 1.The Deputy Inspector General of Registration,
O/o. the Inspector General of Registration,
Ramanathapuram Region, Ramanathapuram-623501.
- 2.The District Registrar (Admin),
O/o. The District Registrar,
Ramanathapuram District, Vandikara Street,
Ramanathapuram-623501.
- 3.The Sub Registrar,
Mudukulathur, Mudukulathur Taluk,
Ramanathapuram District.



WEB COPY



W.P(MD)No.12525 of 2023

N.SATHISH KUMAR, J

Yuva

W.P(MD)No.12525 of 2023

29.08.2024
(2/2)