



W.P(MD)No.13776 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13776 of 2024

and

W.M.P.(MD)No.12122 of 2024

1.Sathyavani Muthu

2.Arunachalam

... Petitioners

Vs.

1.The District Registrar,
Tirunelveli District,
Tirunelveli.

2.The Sub Registrar,
Sub Registrar Office,
Melapalayam,
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned Refusal Check Slip in Refusal Number.RFL/Melapalayam/52/2024 dated 31.05.2024 passed by the 2nd Respondent herein and quash the same as illegal and further direct the 2nd Respondent herein to permit Mrs.Stahyavani Muthu wife of Late.S.Athirsda Mani, the 1st petitioner herein, already appointed guardian of the person and manager of the properties of mentally retarded person



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Mr.A.Vxxx, to sell the immovable properties along with the 2nd petitioner by disclosing statement of accounts before this Court.

For Petitioners : Mr.V.Meenakshisundaram,
For Mr.D.Nallathambi.

For Respondents : Mrs.D.Farjana Ghoushia,
Spl. Government Pleader.

ORDER

Heard both sides.

2.The first petitioner got married to one Athirsta Mani and through the wedlock, three children were born. Two of them are daughters and one is son. The son / A.Vxxx suffers from visual impairment and mental illness. The first petitioner has been appointed as his legal guardian. Copy of the said appointment order has been enclosed at Page No.54 of the typed set of papers. The District Collector has issued the certificate of appointment of legal guardian on 12.02.2024 under Section 14 of National Trust Act, 1999.

3.Athirsta Mani passed away and his self-acquired property devolved in favour his four legal heirs namely, the wife, two daughters and son / A.Vxxx. The family was in severe financial distress and they were compelled to part



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with the property. The property was sold by the first petitioner in favour of the second petitioner on 02.01.2024. The first petitioner had obtained a release deed on 28.06.2018 (Document No.3016/2018). I fail to understand as to how such a document could ever have been registered. The general impression is that corruption prevails considerably in the registration department. The case on hand is a classic instance. Section 34 of the Registration Act, 1908, envisages that enquiry must be conducted by the registering authority before registering any document. The registering authority is obliged to have gone through the recitals of the release deed dated 28.06.2018. It had been fairly mentioned therein that A.Vxxx is suffering from mental issues. It is well settled that the property of such a person cannot be alienated without obtaining prior permission from the competent Court. In this case, the first petitioner's elder daughter was shown as guardian of A.Vxxx and she had executed the release deed in favour of the first petitioner and the same was also registered. It was on the strength of the said release deed, the first petitioner was able to execute the sale deed dated 02.01.2024 in favour of the second petitioner. Now the second petitioner wants to sell the property. At this stage, wisdom had dawned the parties and it was realized that the sale deed executed by the first petitioner in favour of the second petitioner earlier in respect of A.Vxxx's share is null and void. The second petitioner has realized that he has to take one more sale deed



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from the first petitioner and only then, he will be able to deal with the property.

In this background, this writ petition came to be filed.

4.The learned Special Government Pleader for the respondents insisted that since this Court is exercising *parens patriae* jurisdiction, this Court may put the petitioner on terms. The learned Special Government Pleader was fair enough to leave the issue to the discretion of the Court.

5.I carefully considered the contentions advanced by the learned counsel on either side and went through the materials on record. The learned counsel for the petitioner has relied on the following orders passed by the Madras High Court:-

1.2022 (1) MWN (Civil) 490 (C.Raghuraman)

2.W.P.No.4370 of 2022, dated 06.07.2022 (Sudarsanan Vs. The State of Tamil Nadu).

3.W.P.(MD)No.8976 of 2023 dated 26.04.2023, (S.Dhanalakshmi Vs. The Office of the Principal Accountant General, Chennai).

4.W.P.(MD)No.4809 of 2024 dated 03.04.2024 (A.Kalairasi Vs. Union of India)



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*5.W.A.No.1538 of 2024 dated 23.05.2024 (S.Sasikala Vs.
The State of Tamil Nadu).*

6.The judgment in W.A.No.1358 of 2024 was rendered by the Hon'ble Division Bench to which I was a party. I am inclined to adopt the very same approach in this case also. I am satisfied after going through the materials on record that A.Vxxx is being taken care only by the first petitioner. It is further seen that unless the transaction presented before this Court is allowed to go through, the first petitioner may be left without resources to even the maintain her son. Athirsa Mani had left behind an immovable property. An immovable property can generate revenue only if it is leased out or sold. Otherwise, it is incapable of offering sustenance to those dependant on it. It appears that the guideline value of the property is around Rs.12 Lakhs. But the parties have mentioned the sale consideration as Rs.15,20,000/-. Without going into any other aspects, the petitioners come forward to deposit a sum of Rs.10,00,000/- in favour A.Vxxx. This amount shall be deposited as a non-refundable deposit in any nationalized bank. Let the deposit be made in such a manner as to fetch the best interest. The first petitioner can withdraw the interest once in three months. If the first petitioner predeceases A.Vxxx, the interest can be drawn by any person or institution, who will be taking care of A.Vxxx. It is



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open to any interested person to move this Court by filing a miscellaneous petition and obtain appropriate orders. After demise of A.Vxxx, the fixed deposit can be taken in equal shares by the surviving legal heirs.

7.In this view of the matter, the impugned refusal check slip is quashed and the following directions are issued:-

(a) The first petitioner is appointed as guardian for the person as well as the properties of A.Vxxx, son of the first petitioner.

(b) The first petitioner is having 3/4th undivided share in the petition mentioned property. She is permitted to sell the property by including the 1/4th undivided share of her son (A.Vxxx). This can be done upon the petitioners producing the original fixed deposit receipt for Rs.10,00,000/- as mentioned above before the registering authority. The registering authority will satisfy that the same is genuine and thereafter return it to the first petitioner. The first petitioner can withdraw the interest once in three months. If the first petitioner predeceases A.Vxxx, the interest can be drawn by any person or institution, who will be taking care of A.Vxxx. It is



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(c) The first petitioner is directed to file an affidavit before the Registry of this Court indicating compliance of the direction to create fixed deposit in the name of A.Vxxx to the tune of Rs.10,00,000/-.

8.The writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

28.06.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

1.The District Registrar,
Tirunelveli District,
Tirunelveli.

2.The Sub Registrar,
Sub Registrar Office,
Melapalayam,
Tirunelveli District.



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G.R.SWAMINATHAN, J.

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