



W.P(MD)No.13914 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.07.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13914 of 2024

M.K.Gopi
Representing on behalf of his Principal
Tmt.S.Jayanthi,
W/o.Late.S.Shankar,
Flat No.5, Citatel Flat, 1A, Centaph, 2nd Lane,
Teynampet, Chennai-600 018.

... Petitioner

Vs.

1.The Inspector General of Registration,
Door No.100,
Santhome High Road,
Foreshore Estate,
Pattinapakkam,
Chennai-600 028.

2.The Sub-Registrar,
Department of Registration,
Kodaikanal,
Dindigul District.

3.C.Santhi
(R3 is impleaded vide order dated 15.07.2024
in W.M.P.(MD)No.13069 of 2024 by GRSJ)

... 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 relating to impugned refusal slip issued by the 2nd respondent in RFL/Kodaikanal/90/2024 dated 24.06.2024 and quash the same and further direct the 2nd respondent Sub Registrar to register the Sale Deed document dated 24.06.2024 executed by the petitioner in favour of Mrs.Lisama Urumese.



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For Petitioner : Mr.Sricharan Rangarajan
Senior Counsel
for Mr.T.Cibichakraborty

For Respondent : Mrs.D.Farjana Ghoushia
Special Government Pleader for R1 & R2

: Mr.Anantha Padmanabhan
Senior Counsel
for Mr.V.Muthu Kamatchi for R3

ORDER

Heard the learned senior counsel appearing for the petitioner and the learned Special Government Pleader appearing for R1 & R2 and the learned senior counsel appearing for R3.

2. The petitioner is the power agent of one Jayanthi. Jayanthi was locked in litigation with one Lizamme Urmese. The matter was compromised in Civil Appeal Nos.2819-2820 of 2011 before the Hon'ble Supreme Court of India. In terms of the said compromise, the petition mentioned sale deed was executed in favour of Lizamme Urmese. It was presented for registration. Registration was refused on the ground that the third respondent herein had staked rival claim and that she had also obtained exparte decree in her favour in O.S.No.137 of 2013 on the file of the Distirct Munsif Court, Kodaikanal. The only question that calls for consideration is whether on this ground, registration could have



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been refused. The petition mentioned property belonged to South Travancore Plantations Limited. South Travancore Plantations Limited had sold the same in favour of one K.S.Chandra Sekharan S/o.S.N.M.Sankaralinga Iyer vide sale deed dated 22.06.1972. Lizamme Urmese entered into the sale agreement in the year 1977 to purchase the petition mentioned property. The transaction met with some road blocks and ultimately developed into litigation. It went right upto the Supreme Court. Eventually, it was compromised in Civil Appeal Nos. 2819-2820 of 2011. Both K.S.Chandrasekaran s/o.S.N.M.Sankaralinga Iyer and S.Shankar S/o.K.S.Swaminathan had passed away. S.Jayanthi legal heir of S.Shankar alone was contesting the matter. She had appointed Thiru.MK.Gopi as her power agent to execute the petition mentioned sale deed. The third respondent claims that her father K.S.Chandra Sekharan had executed the settlement deed in her favour on 06.01.2012 and that her husband S.Shankar executed the settlement deed dated 10.04.2013. Both are registered documents.

3. The learned senior counsel appearing for the petitioner strongly contends that both these documents were executed by committing impersonation. Crime No.250 of 2023 was registered on the file of the Inspector of Police, Kodaikanal Police Station against the third respondent and her husband and another. They filed CrI.O.P.(MD)No.15611 of 2023. It was



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taken up along with few other criminal original petitions and disposed of on 26.09.2023. A learned Judge of this Court had while disposing all the criminal original petitions had observed as follows:-

“2.The case of the prosecution in brief:- The de-facto complainant lodged a complaint under section 156(3) Cr.P.C before the Judicial Magistrate No.II, Kodaikanal stating that one Lizamma Urmese purchased the property in 1968. On 22/06/1972, she sold the same in favour of one Chandrasekaran and Shankar. Later Shankar entered into a sale agreement with Lizamma Urmese. The sale agreement was existing, dispute arose between the above said Lizamma Urmese and Chandrasekaran, over which, a suit in O.S No.373 of 1992 was pending on the file of the Sub Court, Dindigul. Similarly, Shankar filed a suit in O.S No.438 of 1992 and a common judgment was passed, on 27/08/1996. Shankar died, on 26/03/2012 leaving behind his wife. The accused persons in order to grab the property made a false publication stating that the document No.470 of 1972 was missing. A complaint was given in Kodaikanal Police Station. The above said publication was made by one Sudhakar. By taking advantage of the similarity of the name Shankar, executed a sale deed in favour of Santhi, on 06/01/2012 in document No.470 of 1972. The father of Santhi's name was mentioned as Shankar. But in the sale deed, the father name is mentioned as 'Chandrasekaran'. Address also differs. Not only the Document Writers, but also the witnesses have indulged in conspiracy. Similarly, the above said Sudhakar is also colluding with other accused for the purpose of committing the above said forgery. Similarly, the father name of Chandrasekaran is also wrongly mentioned. The above said Chandrasekaran also executed a sale deed in favour of his wife, on 23/06/1972. The occupant of the property namely Vignesh filed a complaint before the Kodaikanal Police Station in Crime No.336 of 2012. That was referred as 'Mistake of fact'. Since, it was found that during the course of enquiry, Chandrasekaran was died at the age of 14, O.S No.1378 of 2013 was filed by Shankar taking advantage of the similarity of the name. So also obtained ex-parte decree. The above said impersonation was also known to the above said Advocate namely Sudhakar and Mohammed Mydeen. By impersonating and by creating



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false documents, decree has also obtained. Seeking action against the accused persons, all those persons the above said complaint has been filed.

3.From the facts narrated above, by taking advantage of the similarity of the name, the above said document appears to have been created. Originally, the property belongs to one Chandrasekaran and Shankar. Later the above said Chandrasekaran and Shankar executed a sale agreement in favour of Lizamma Urmese. Lizamma Urmese filed a suit in O.S No.19 of 1988 before the Sub Court, Dindigul. Similarly, Shankar also filed a suit in O.S No.206 of 1989 before the very same Court seeking partition of his half share in the above said joint purchase of 97.5 cents. A common order was pronounced, by which, the suit for specific performance namely O.S No.373 of 1992 filed by Lizamma Urmese was transferred to the Sub Court, Dindigul, but O.S No.429 of 1992 was allowed. So, Lizamma Urmese filed appeal in AS No.229 of 1997 and transferred AS No.1132 of 2002 before the Principal Seat. In the above said proceedings, Chandrasekaran remained ex-parte. In the meantime, Shankar died. Then the legal-heirs of Shankar preferred appeal before the Hon'ble Supreme Court in Appeal No. 7819/2013 and the matter was referred to Mediation and settlement was arrived, by which, Lizamma Urmese agreed to settle 13.5 cents in favour of Shankar. So, the Principal Jayanthi and Lizamma Urmese are in joint possession of the property. In the meantime, Shankar and Chandrasekaran knowing the internal dispute between the Lizamma Urmese and Late husband of the Principal, hatched conspiracy to grab the property by using the sameness of the name in document No.470 of 1972. In pursuance of the above said conspiracy, they preferred a complaint stating that the document No.470 of 1972 is missing.

4.On that basis, non-traceable certificate was obtained. Paper publication was issued through an Advocate Sudhakar. On the strength of the above said certificate with the connivance of the other parties, Shankar executed a settlement deed in favour of A1, on 06/10/2012. Similarly, A2 namely Chandrasekaran also executed another settlement deed for the remaining portion of the property in favour of Santhi, on 01/04/2013. The above said fraud is evident on perusal of the above said document, dated 22/06/1972. Because on the above said date, A1 was only six years old and A2 was 14 years. There was no relationship between A1 and A2 at that time. This is the history of the above said issue as narrated by the intervenor.



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5. So apparently, it is seen that it is a fraudulent document. In the light of the above said factual position, now let us go to the independent role played by the petitioners herein.”

4. I am conscious that the aforesaid observations cannot be taken as final findings. They were made only for the purpose of disposing of the criminal original petitions filed under Section 438 of Cr.P.C. It is true that there cannot be double registration in respect of one property. But this rule will have to admit of exceptions. The case on hand is one such. The rival claim made against the petition mentioned document has been found to be fraudulent. Registration made in favour of the third respondent appears to be seriously vitiated. In view of the aforesaid observation rendered by a learned Judge of this Court, registration has to be necessarily permitted. In this view of the matter, the impugned refusal check slip is quashed. The petitioner is permitted to re-present the document. It shall be registered by the second respondent and released.

5. The writ petition is allowed accordingly. No costs.

25.07.2024

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

- 1.The Inspector General of Registration,
Door No.100,
Santhome High Road,
Foreshore Estate,
Pattinapakkam,
Chennai-600 028.
- 2.The Sub-Registrar,
Department of Registration,
Kodaikanal,
Dindigul District.



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G.R.SWAMINATHAN, J.

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