



W.A.(MD) No.1242 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2024

CORAM

JUSTICE N.SESHASAYEE

and

JUSTICE P.VADAMALAI

W.A.(MD) No.1242 of 2020
and C.M.P.(MD) Nos.7023 and 7024 of 2020

K.Anandaraj

... Appellant/3rd Party

Vs.

1.Sasikala Devi

... 1st Respondent/
Petitioner

2.The Sub Registrar,
Sub Registrar Office,
Kovilpatti,
Tuticorin District.

3.The District Registrar,
Palayamkottai,
Tirunelveli District.

... Respondents 2 & 3/
Respondents 1 & 2

Prayer: Appeal filed under Clause 15 of Letters Patent against the order dated 09.10.2020 passed in W.P.(MD) No.14094 of 2020.



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For Appellant : Mr.J.Barathan
For R1 : Mr.R.Subramanian
For RR2 & 3 : Mr.A.Baskaran
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by N.SESHASAYEE, J.)

This appeal is preferred by a third party to the order dated 09.10.2020 passed by a learned Single Judge of this Court in W.P.(MD) No.14094 of 2020.

2. The quintessence of the controversy before this Court may be stated:

(a) A certain block of property originally belonged to one Vellachi. On 18.06.1918, she had settled the property to his brother Shanmuga Kudumban and her nephew (son of her sister) Mahalinga Kudumban. According to the writ petitioner, both Shanmuga Kudumban and Mahalinga Kudumban had acquired equal right under the settlement deed. While so, some time in 1946, Mahalinga Kudumban had dealt with the entire property and sold it to one Paulraj Nadar. The appellant herein is the grandson of the said Paulraj Nadar. So far as the writ petitioner is concerned, she claims herself to be the granddaughter of



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Shanmuga Kudumban, the other settlee.

(b) The writ-petitioner has approached the Sub-Registrar concerned to have the sale deed executed by Mahalinga Kudumban in favour of Paulraj Nadar in 1946 declared - as bad in law, and as it did not evoke any response, she approached this Court with a petition in W.P.(MD) No.14094 of 2020. The appellant herein was not arrayed as a party to the said proceedings.

(c) The prayer before the learned Single Judge was for issuance of a writ of mandamus directing the officials under the Registration Act, 1908 to declare that the document dated 09.05.1946 which Mahalinga Kudumban had executed in favour of Paulraj Nadar and certain other sale deeds executed in 2018 by the descendants of Paulraj Nadar as null and void.

In his order, the learned Single Judge has directed the District Registrar concerned to consider the representation of the writ petitioner for a limited purpose of invoking his authority under Sec. 83 of the Registration Act, 1908.

3. The learned counsel for the appellant made two pointed statements:



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(a) Nowhere in her affidavit, the writ petitioner had disclosed her interest in the property; and

(b) Inasmuch as Mahalinga Kudumban had sold the property even in 1946, if at all the writ petitioner had any right, that ought to be agitated only before a competent civil Court and not before the District Registrar. He also placed reliance on Rule 55 of the Registration Rules.

4. Per contra, the learned counsel appearing for the writ petitioner/1st respondent submitted that it cannot be disputed even by the appellant that his predecessor in title had only half share in the property, and that he should not have dealt with the entire property. He submitted that the learned Single Judge has only directed the Registering Authority to hold an enquiry under Section 83 of the Registration Act and no more.

5. The rival submissions are weighed carefully. The writ petitioner asked for the sun and the learned Judge has not even not given the moon. What is significant here is that in a cases such as this, why should the appellant appear before the District Registrar for an enquiry under Section 83 of the



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Registration Act? Here Rule 55 of the Registration Rules becomes significance and it reads as below:

“55. It forms no part of a registering officer’s duty to enquire into the validity of a document brought to him for registration or to attend to any written or verbal protest against the registration of a document based on the ground that the executing party had no right to execute the document; but he is bound to consider objections raised on any of the grounds stated below:-

(a) that the parties appearing or about to appear before him are not the persons they profess to be;

(b) that the document is forged;

(c) that the person appearing as a representative, assign or agent, has not right to appear in that capacity;

(d) that the executing party is not really dead, as alleged by the party applying for registration; or

(e) that the executing party is a minor or an idiot or a lunatic.”

6. Very evidently, the District Registrar cannot go into the question of title but may have some power to enquire if any of the executants of any document that was presented before him for registration have engaged in fraud on



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registration. The act of registering a document is essentially a statutory act and therefore, the scope of enquiry under Sec.83 of the Act should necessarily be limited to enquiring into the conduct of the parties to ascertain if it constitutes any fraud on registration. The issue here is however, different where the writ petitioner literally requires the District Registrar concerned to decide the title to the property. This is something that has to be agitated only before a competent civil Court.

7. In view of the above, this Court allows this Writ Appeal, sets aside the order of the learned Single Judge in W.P.(MD) No.14094 of 2020, dated 09.10.2020. The writ petitioner/1st respondent in this appeal is at liberty to institute any civil suit for establishing her title, if she is so desirous. No costs. Consequently, connected miscellaneous petitions are closed.

(N.S.S., J.)

(P.V.M., J.)

16.04.2024

NCC : Yes/No

Index : Yes/No

ABR



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To

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