



WP(MD). No.16651 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 29/08/2024

CORAM

The Hon`ble Mr.Justice N.SATHISH KUMAR

**WP(MD). No.16651 of 2019 and
WMP(MD) No.13282 of 2019**

1. Jeyalakshmi,

2. Senthilkumar,,

... Petitioners

Vs

1. The Inspector General of Registration,
Registration Department, No.
100, Santhome High Road,
Raja Annamalai Puram,
Chennai.

2. The Deputy Inspector General of Registration,,
Registration Department,
6/1 Grd Road Opp, Air
Force Admin College,
Red Fields, Coimbatore,

3. The District Registrar,,
Sivagangai Dist.

4. The Sub Registrar,,
Manamadurai Sub Registrar Office,
Manamadurai Town, Sivagangai Dist.



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5. Usha Devi Alias Usha Venkateshwaran,

6. Muruganantham,,

7. Saritha,

8. Boomi Raja,

... Respondents

PRAYER :-Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus to direct the respondents 1 to 3 initiate criminal proceedings against 5th respondent and against the 4th respondent under section 82 and 83 of Registration Act for executing and registering the document Nos.2169 and 2170/2017 dated 14.02.2017 on the file of the Sub Registrar, Manamadurai, Sivagangai District and further to take disciplinary action against the 4th respondent.

For Petitioner : M/s.S.Natarajan,
Senior Counsel

For Respondents : Mr.M.Siddharthan for R1 to R4
Additional Government Pleader

Mr.J.John for R7&R8

Mr.D.P.Sundarraaj for R5

No appearance for R6



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ORDER

This writ petition has been filed to direct the respondents 1 to 3 to initiate criminal proceedings against 5th respondent and against the 4th respondent under sections 82 and 83 of Registration Act for executing and registering the document Nos.2169 and 2170/2017 dated 14.02.2017 on the file of the Sub Registrar, Manamadurai, Sivagangai District and further to take disciplinary action against the 4th respondent.

2. The case of the petitioner is that the petitioner's father Ramakrishna Pillai purchased D.No.148, 149, 150 and 151 from one Ramasamy Raju, who is the son of Malliga Arjuna Raju, on 03.03.1989. Ever since the date of purchase, the petitioner's father was in possession of the property. The petitioner is now in possession of the property. One Malliga Arjuna Raju filed a suit in OS No.49/1996 and 107/1998 regarding shop Nos.149 and 151 claiming as joint family property. The said suit ultimately reached finality in SA Nos.384 and 385 of 2000 vide common judgment and this Court has held that the plaintiff is not entitled to possession till the relief of partition and separate possession.



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However, it is held that the possession need not be disturbed.

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3. In crux, it is held that Ramakrishnapillai has purchased undivided share and cannot be evicted from the premises. Thereafter, the suit in OS No.138/1991 has been filed by Ramakrishna Pillai. In the appeal filed as against the said judgment in AS No.160/1996, undivided share has been upheld. Thereafter the 5th respondent daughter of Mallikarjuna Raju, claims to be the co-owner, has sold the property in favour of R6 and R7. Therefore, it is the contention of the writ petitioner that despite the pendency of the suits and judgment in favour of the petitioner, the sale deed has been executed suppressing the pendency of the suit. Therefore, action is sought to be initiated against the 5th respondent and others under Sections 82 and 83 of the Registration Act, 1908.

4. The 7th and 8th respondents have filed a counter. According to them, Ramakrishna Pillai was originally the tenant of the vendor's father and has not paid the rent fixed by the Court. Thereafter, he has purchased the property namely the four shops from one Ramasamy Raju.



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Based on the said purchase, he has filed a suit in OS No.138/1991, wherein, it is held that he is entitled to only 1/54th share. Thereafter the 7th respondent's father Mallikarjuna Raju, has filed suit for declaration and permanent injunction against Ramakrishnan in OS No.311/1991 in respect of D.No.150. The said suit has been decreed against Ramakrishnan and appeal has been filed, which has attained finality and permanent injunction stands confirmed. According to them, they have purchased the property, ie., D.Nos.150 and 151 vide registered documents and tax also paid. The writ petition filed by the petitioner in WP(MD)No.367/2018 for cancelling the document, has also been dismissed.

5. The learned counsel for the petitioner vehemently contended that as the civil Court decrees are in his favour, suppressing the same, sale deed is executed by the 5th respondent. Hence, he vehemently contended that action under Sections 82 and 83 to be initiated against the respondents.



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6. I have considered the rival submissions and perused the materials available on record.

7. On perusal of the entire materials and submissions, this Court is of the view that in a writ petition, the petitioner wants to achieve indirectly what he could not achieve before the civil Court. Of course, he is the purchaser of undivided share. The purchase has been upheld. Considering the same, this Court has also held in the appeal that possession shall not be disturbed until partition suit is filed. However, no such suit has been filed. In the meanwhile, the 5th respondent is also claiming as co-sharer on such undivided share, of course, with specific door number. Therefore, while executing the document, it has been stated that suit property is ancestral property and is not involved in OS No.138/1991. According to the learned senior counsel for the petitioner, this suppression of material facts would require action under Sections 82 and 83 of the said Act.

8. At the outset, it is relevant to note that the suit number referred in the sale deed executed by the 5th respondent is no way connected to the



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petitioner's suit. The petitioner's father filed a suit in OS No.138/1991.

Therefore, merely because, some averment has been made by one of the co-owner selling the property indicating that the suit property is not connected in OS No.138/1991 that statement cannot be considered as a false statement. Admittedly, the petitioner has purchased undivided share. Other co-owners have a right in the property. When the other co-owners dealt with the property and registered the sale deed, it cannot be held that the document is registered by giving a false document. What is applicable to the petitioner's father, who is the purchaser of undivided share, also applicable to the subsequent purchaser, who has also purchased from the share of the other co-owner. Therefore, merely because the petitioner's possession has been protected by this Court, it does not mean that separate property has to be allotted in a final decree proceedings. However, despite direction has been given by this Court in the appeal, the writ petitioner and others have not filed any suit for partition till date.

9. In such view of the matter, merely because the other co-sharers dealt with undivided share by way of sale deed and purchase by other



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private respondents, that cannot be considered as 'giving false statement'.

It is for the parties to work out their remedy for separation of their extent of purchase only by filing a partition suit. Without doing so, filing a writ petition to cancel the document and to take action against the seller and purchaser will not serve any purpose. Hence, I do not find any merits in this writ petition. Accordingly, the writ petition is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

29.08.2024

NCC : Yes/No
Index : Yes/No
RR



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N.SATHISH KUMAR,J

**ORDER
IN
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