



W.P.(MD)No.16418 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED 09.01.2024

CORAM

THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**

W.P(MD)No.16418 of 2022

1.Thangam
2.Padmavathi
3.Thangammal
4.Padma

...Petitioners

/Vs./

1.The District Registrar,
Nagercoil,
Kanyakumari District.

2.The Sub Registrar,
Thovalai Sub Registrar Office,
Kanyakumari District.

...Respondents

Prayer: Writ Petition - filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd respondent to register the released deeds dated 13.05.2022 of the petitioners in respect of the property in Survey No.543/10, 547/12 in situated in Madhavalayam Village, Thovalai Sub Registrar Office, Kanyakumari District and in Survey No.614/3 in Thalakudi Village, Boothapandi, Kanyakumari District without insisting the production of succession order instead of legal heirs ship certificate within a time limit stipulated by this Court.



W.P.(MD)No.16418 of 2022

For Petitioners : Mr.S.Saravanakumar

For Respondents : Mr.S.Shanmugavel

Addl. Government Pleader

ORDER

This writ petition has been filed for issuance of writ of mandamus, directing the 2nd respondent to register the released deeds dated 13.05.2022 of the petitioners in respect of the property in Survey No.543/10, 547/12 situated in Madhavalayam Village, Thovalai Sub Registrar Office, Kanyakumari District and in Survey No.614/3 situated in Thalakudi Village, Boothapandi, Kanyakumari District without insisting production of succession order instead of legal heirs certificate within a time limit stipulated by this Court.

2. According to the petitioners, petitioners 2 to 4 are the sisters of the first petitioner's mother. The grandfather of the first petitioner, namely Thangaiya Nadar died leaving behind the petitioners and one Atchimuthu as legal heirs. Since the first petitioner's mother died, the first petitioner was in place of his mother as one of the legal heirs. After demise of the said Thangaiya Nadar, the subject property was inherited to the petitioners and one Atchimuthu. Due to the family arrangements, the petitioners have decided to



W.P.(MD)No.16418 of 2022

relinquish their shares over the subject property to the said Atchimuthu and they have executed a release deed to that effect and submitted before the second respondent, who in turn simply returned it stating that the legal heirship certificate is not accepted and directing them to get succession order from the concerned Court. Hence, the petitioners have preferred this writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioners submits that the petitioners have proved their title and the second respondent is duty bound to verify the documents to prove the ownership and hence, the refusal of the document claiming succession order is illegal. The petitioners have also made a representation to the second respondent. Hence, they prayed for a direction to register the documents.

4. The learned Additional Government Pleader appearing for the respondents, by way of filing counter affidavit, submits that the petitioners executed two release deeds in favour of Aatchimuthu Nadar in respect of the subject properties. The petitioners, without any patta in their names, insisted to register the release deed, which is against the Circular Letter No. 25600/C1/2018, dated 07.06.2018, wherein it is stated that the registering



W.P.(MD)No.16418 of 2022

authorities can register the documents only after getting prior document and patta from the executors, which is necessary for registration apart from the compliance of mandatory provisions under Section 5 of the Patta Passbook Act, 1983. The respondents have not violated any provisions of law and hence, he prayed for dismissal of this writ petition.

5. Heard the learned counsel appearing for the petitioners and the learned Additional Government Pleader for the respondents.

6. It is seen from the records available before this Court that patta was issued in Patta Nos.175 and 3003 in favour of the said Thangaiya Nadar, who is none other than the first petitioner's grandfather and the father of the other petitioners. The petitioners have also filed the death certificate and the legal heirship certificate of the said Thangaiya Nadar.

7. Considering the aforesaid facts and circumstances of this case, this Court is of the considered view that the registering authority cannot insist any succession order for registration of a document and therefore, the petitioners shall produce the death certificate and the legal heirship certificate of the said Thangaiya Nadar to prove the ownership of the subject property before the



W.P.(MD)No.16418 of 2022

second respondent by re-submitted the document for registration and on receipt of the same, the second respondent shall consider the same and register the document presented by the petitioners without insisting the succession order within a period of eight weeks from the date of receipt of the re-submission of the document by the petitioners.

8. With the above directions, this writ petition is disposed of. No costs.

09.01.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
sm



WEB COPY



W.P.(MD)No.16418 of 2022

V.BHAVANI SUBBAROYAN, J.

sm

TO:-

- 1.The District Registrar,
Nagercoil,
Kanyakumari District.
- 2.The Sub Registrar,
Thovalai Sub Registrar Office,
Kanyakumari District.

Order made in
W.P(MD)No.16418 of 2022

Dated:
09.01.2024