



W.P.(MD)No.17748 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)Nos.17748 & 17749 of 2022

P.R.Chellamani

... Petitioner in both cases

Vs.

1.The Sub Registrar,
Sub Registrar Office,
Dindigul-Kottampatti Main Road,
Natham,
Dindigul District.

2.C.Rajammal

.. Respondents in both cases

[R2 is impleaded vide Court order dated 13.08.2024 in WMP(MD)No.16431 of 2022 in WP(MD)No.17748 of 2022 by NSKJ]

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records of the proceedings in RFL/Natham/8/2021 dated 23.08.2021 and RFL/Natham/3/2022 dated 02.05.2022 respectively, on the file of the respondent. and quash the same as illegal.



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In both cases:

For Petitioner : Mr.H.Lakshmi Shankar
for Mr.S.Ramesh
For Respondents : Mr.C.Satheesh
Government Advocate for R1
: No appearance for R2

COMMON ORDER

Though these two separate writ petitions have been filed, the issue involved is one and the same refusal, these two writ petitions are taken up together and disposed of by way of this common order.

2. Though the impleading petition has been filed and also permitted, none appeared before this Court and no counter filed.

3. Challenge has been made to the impugned proceedings in RFL/Natham/8/2021 dated 23.08.2021 and RFL/Natham/3/2022 dated 02.05.2022 respectively, on the file of the respondent.

4. Heard the learned counsel for the petitioner and the learned Government Advocate and also perused the materials placed before this Court.



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5. The petitioner has presented a settlement deed in favour of his wife dated 23.08.2021 and the same was originally refused by the Registrar vide impugned order dated 23.08.2021, on the ground that sufficient documents had not been produced. Once again, the petitioner produced all the documents, again the impugned order dated 02.05.2022 came to be passed stating that the petitioner has not established the title.

6. It is the case of the petitioner that a total extent of 5.76 acres purchased by the petitioner and his brother ie., each of them purchased $\frac{1}{2}$ of the total 5.76 acres, in the year 1981. Thereafter, in a family partition among the brother, the entire 5.76 acres was allotted to the petitioner in respect of which a memorandum was also executed. The said partition has been acted upon. In the mortgage deed executed by the petitioner in respect of the entire property, his brother was one of the attesting witness. After his death, in the second mortgage deed, the brother's son was also an attesting witness. That apart, he also sold a portion of the property pursuant to the said settlement in the family. Further, based on the contention that his brother has also executed a sale deed in the year 2008 affirming the partition in the family and when these documents have been



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produced, the impugned orders came to be passed. Hence, the same has been challenged.

7. Be that as it may, the act of the respondent indicates that in fact the respondent has virtually tried to decide the title. That cannot be permitted in the eye of law. Only a limited enquiry is contemplated under Section 34 of the Registration Act and Rule 55 of the Registration Act clearly stipulated that the registering authority cannot be gone to the title issue. Such being the position when the sufficient documents evidencing the right of the petitioner, has already been established, it is not for the registering authority to question the title. If the impleading petitioner has right over the property, it is for her to challenge before the appropriate civil Court. For that reason, the registration cannot be denied and hence, the impugned proceedings are liable to be set aside.

8. Accordingly the impugned orders dated 23.08.2021 and 02.05.2022 stand quashed. There is a direction to the first respondent to register the document produced by the petitioner within a period of one week from the date of receipt of a copy of this order.



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9. With the above direction, these writ petitions are disposed of. No

Costs.

16.08.2024

NCC : Yes/No
Index : Yes/No
PJL

To
The Sub Registrar,
Sub Registrar Office,
Dindigul-Kottampatti Main Road,
Natham,
Dindigul District.



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N.SATHISH KUMAR, J.

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