



W.P(MD).No.18896 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD).No.18896 of 2022
and
W.M.P(MD).No.13793 of 2022

V.M.Karthikeyan

... Petitioner

Vs.,

1.The District Registrar (Admin),
Sivagangai, Sivagangai District.

2.The Sub-Registrar,
Registration Department,
Nainarkovil, Ramanathapuram District.

3.The Sub Registrar,
Registration Department,
Ilayankudi,
Sivagangai District.

4.The Inspector of Police,
Salaigramam Police Station,
Salaigramam, Sivagangai District.

5.M.Mery @ Sebastiyammal

6.Selin Mery

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the impugned order passed by the first respondent in his proceedings in மு.மு.எண்..No.2922/இ1/2021 dated 25.03.2022 and quash the same.

For Petitioner : Mr.B.PRahalad Ravi
For Respondents : Mr.M.Siddarthan (for R1 to R3)
Additional Government Pleader
Mr.M.Vaikkam Karunanidhi (for R4)
Government Advocate
Mr.S.Rajasekar (for R5 & R6)

ORDER

The writ petition has been filed challenging the impugned order passed by the first respondent in his proceedings in மு.மு.எண்..No.2922/இ1/2021 dated 25.03.2022 and quash the same.

2. The case of the petitioner is that the property comprised in Survey No. 293/2 and 295/2 situated at Sethukudi Village, Sivagangai District and comprised in Old Survey No.104/1, New Survey No.262/27 situated at Sooranam Village, Sivagangai District, originally belongs to his father, namely, Maria Arul. The respondents 5 and 6 are none other than the sisters of the petitioner. After the demise of Maria Arul, the subject property was in possession of the petitioner and



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patta also stand in the name of the petitioner and to that effect consequent alienation was made by virtue of the sale deeds bearing Doc Nos.1444 of 2009, 302 of 2018 and 456 of 2018, that was not objected by the respondents 5 and 6. Thereafter, on 06.09.2021, the respondents 5 and 6 have given a complaint to the District Registrar alleging that the petitioner suppressing the existence of them obtained a Legal Heirship Certificate as if he is the only legal heir of the deceased Maria Arul and sold the property in the year 2009 and 2018. On that basis, enquiry has been conducted and the first respondent held that the criminal action should be taken against the petitioner and no further alienation to be effected in respect of the subject property, however, the document has not been cancelled. As against the order passed by the District Registrar, the petitioner is before this Court.

3. It is the contention of the petitioner that the oral partition has already been effected in the family. After execution of sale deed in respect of the petitioner's property, due to escalation of price of the property, the complaint has been lodged against the petitioner, after many years of the transaction. Therefore, there is no forgery involved. The first respondent also held that only the petitioner suppressed the existence of the respondents 5 and 6 as the legal heirs of the



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deceased Maria Arul and there is no forgery involved. Hence, the impugned order restricting further sale cannot be sustained in the eye of law and the first respondent ought to have relegated the parties to approach the civil Court to establish their right.

4.The learned Special Government Pleader submits that the very legal heirship certificate was obtained by suppressing the facts. After conducting enquiry, the respondent had held that no further transaction with regard to the subject property cannot be made. Therefore, the impugned order does not require any interference.

5. Heard both sides and perused the entire materials available on record.

6. It is not disputed that the subject property has been sold in the year 2009 by the petitioner as he is the only legal heir of the deceased Maria Arul excluding his sisters, namely, the respondents 4 and 5. However, an application has been given before the registering authority in the year 2021 alleging that there is a forgery. It is relevant to note that merely excluding the other legal heirs for obtaining a legal heir certificate, may not amount to forgery at all. To constitute,



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the forgery act of the person should come within the ambit of the definition of creation of false document. Therefore, mere suppression will not constitute forgery of document.

7. Be that as it may, with regard to the other allegation that there was a family arrangement and the entire property has been dealt with by one of the brothers, also cannot be brushed aside and it can be seen only by producing proper evidence. If the respondents four and five are of the view that they have any right over the property, they should establish the same before the civil Court. Instead of doing so, the act of the respondents four and five in approaching District Registrar to cancel the document itself indicates that some way or the other, they wanted to stall the further transaction, which cannot be permitted as the District Registrar cannot go into these aspects. Hence, the finding recorded by the Registrar holding that there is forgery and no further transaction shall be made, stands quashed. It is for the parties to seek remedy before the civil Court. No costs. Consequently, connected Miscellaneous Petition is closed.

13.08.2024

NCC : Yes/No
Index : Yes/No
Rmk



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N.SATHISH KUMAR, J.

Rmk

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