



C.M.A.(MD)No.308 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

C.M.A.(MD)No.308 of 2014

and

MP(MD)No.1 of 2014

S.Kannan (Died)

Habibu Nisha

... Appellant

(2nd Appellant is brought on record as LR of the deceased Sole appellant vide order of this Court dated 14.02.2024 made in C.M.P(MD) No. 742 of 2024 in C.M.A.(MD) No. 308 of 2014 by PDBJ)

-Vs-

1. The District Registrar,
Dindigul.

2.The Joint Sub Registrar No.2,
Dindigul.

3.The Inspector General of Registration,
100, Santhome Highway,
Pattinapakkam,
Chennai – 28.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 47(A) (10) of Stamp Act, to set aside the order passed in Na.Ka.No.61892/P1/2013 by the Inspector General of Registration Chennai dated 28.01.2014 with costs through out.



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For Appellant : Mr.M.Rajaraman

For Respondents : Mr.G.Sivaraja
Government Advocate (Crl.Side)

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant to set aside the order passed by the third respondent in Na.Ka.No.61892/P1/2013 dated 28.01.2014 confirming the order passed by the second respondent.

2. According to the appellant, on 28.06.2010, he purchased a property in F.S.No.2172/3, Agaram Village, Dindigul District from one Jothimaniammal vide D.No.4473/2010. At that time, the said Jothimaniammal executed a sale deed by suppressing the fact that she was minor. Later on, the appellant came to know that she was minor at the time of execution of sale deed. Hence, once again, he got consent deed from the said Jothimaniammal and the same was also registered in D.No.101/2012. For that consent deed, the first respondent has charged the stamp duty as if the property was conveyed a fresh. In fact, there is no conveyance of property and already, the property was conveyed to the appellant and now, he obtained only the consent deed. Therefore, there is no conveyance as per the consent deed. Thereafter,



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the first respondent passed an order dated 06.11.2012 by fixing the deficit stamp duty of Rs.1,47,265/- and the same was challenged by the appellant. The third respondent also erroneously passed an order in Na.Ka.No. 61892/P1/2013 by stating that the minor cannot execute any sale deed and thereby, the sale deed dated 28.06.2010, which was already executed is null and void and therefore, the property is conveyed only through the present deed. As against the said order passed by the third respondent, the present appeal is filed.

3. According to the respondents, at the time of purchasing of the property, the vendor was minor and thereafter, the appellant obtained a consent deed from the vendor after she attained majority. Hence, the previous sale deed dated 28.06.2010 is void and thereby, the appellant has to pay necessary stamp duty for the consent deed.

4. This Court heard both sides and perused the materials on record.

5. In this case, there is no dispute that already, the property was conveyed by the Jothimaniammal and thereafter, once again, the parties



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entered into the deed of consent. Already, the property was conveyed to the appellant and thereafter, the second deed was executed as consent deed. Since already the property was conveyed through the first sale deed and the second one is only the consent deed, the property was not conveyed through the consent deed. Therefore, the order passed by the third respondent is not in accordance with law. Further, the third respondent is not a competent authority to decide the validity of the sale deed executed on 28.06.2010. Therefore, the order passed by the third respondent is liable to be set aside.

6. In the result, this Civil Miscellaneous Appeal is allowed and the order passed by the third respondent is set aside and the respondents are directed to release the document forthwith. There shall be no orders as to costs. Consequently, the connected miscellaneous petition is closed.

06.03.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The District Registrar,
Dindigul.
2. The Joint Sub Registrar No.2,
Dindigul.
3. The Inspector General of Registration,
100, Santhome Highway,
Pattinapakkam,
4. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL,J.

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