



W.P.(MD)No.20448 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.20448 of 2022
and WMP(MD)Nos.14807 &17886 of 2022

Fathimmal Beevi

... Petitioner

Vs.

1. The Inspector General of Registration,
O/o. The Inspector General of Registration,
No.100, Santhome High Road,
Raja Annamalaipuram,
Chennai.

2. The Deputy Inspector General of Registration,
O/o. the Inspector General of Registration,
Saint Thomas Road,
Maharaja Nagar,
Tirunelveli.

3. The District Registrar (Admin.),
O/o. The District Registrar,
No.57, RTO Complex,
Railway Feeder Road,
Tenkasi, Tenkasi District.

4. The Sub Registrar,
Panpoli Sub Registrar Office,
Panpoli,
Tenkasi District.



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5. Shek Thavuthu

6. Maideen Meeral

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order dated 04.08.2022 passed in Na.Ka.No.3207/ThaBi/2021 on the file of the 2nd respondent and quash the same as illegal.

For Petitioner	: Mr.A.Sankararamasubramanian
For R1 to R4	: Mr.M.Siddharthan Additional Government Pleader
For R5	: Mr.N.Syed Ali
For R6	: Mr.C.Saravana Kumar

ORDER

Challenge has been made to the impugned order passed by the Deputy Inspector General of Registration.

2.The case of the petitioner is that when a complaint has been given by the 5th respondent for cancelling the documents on the ground that without partition, a sale deed has been registered by the writ petitioner and the same has been registered in Doc.No.1828/2018, the original authority has dismissed the



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complaint relocating the parties to civil Court. Be that as it may, the Deputy Inspector General of Registration passed the impugned order holding that the sale deed has been fraudulently registered as the Will has been made without there being any partition. Challenging the said finding, this writ petition has been filed.

3. Heard both side and perused the materials placed before this Court.

4. It is stated by the learned counsel for the petitioner that a suit in O.S.No. 279 of 2021 on the file of the Principal Sub Court, Tenkasi, filed by the 5th respondent for the relief of partition is pending.

5. Be that as it may, the very impugned order passed by the respondent is, in the opinion of this Court, a clear non-application of mind. Merely because the sale has been effected without there being a partition, the entire sale deed cannot be annulled. If any person aggrieved, they ought to have file a suit for partition for allotment of separate share; whereas the entire sale deed has held to be as fraudulent one; the said finding cannot be valid in the eye of law. When the substantial provision of law provides the co-owners can get their share through appropriate Civil Court by filing appropriate suit, the registering authority



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annulling the document on the ground that there is no partition is effected, shows the clear non-application of mind. Hence, the same is liable to be quashed.

6. In the result, this writ petition is allowed and the impugned order dated 04.08.2022 is quashed. No Costs. Consequently, connected miscellaneous petitions are closed.

20.08.2024

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

PJL

To

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No.100, Santhome High Road,
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Chennai.

2. The Deputy Inspector General of Registration,
O/o. the Inspector General of Registration,
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3. The District Registrar (Admin.),
O/o. The District Registrar,
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N.SATHISH KUMAR, J.

PJL

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