



W.A(MD)No.1530 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)No.1530 of 2024
and
C.M.P.(MD)No.11921 of 2024**

—
S.M.Sivakumar

... Appellant / 5th Respondent

-vs-

1.S.M.Sivasamy

... Respondent / Writ Petitioner

2.The Inspector General of
Registration,
No.100, Santhome High Road,
Raja Annamalaipuram,
Chennai-600 028.

3.The Deputy Inspector General
of Registration,
Madurai Region,
TNAU Nagar, Rajakambeeram,
Y.Othakadai,
Madurai-625 107.

4.The District Registrar
(Administration),
(In the cadre of Assistant Inspector
General of Registration),
Dindigul.

5.The Sub Registrar,
Nilakkottai,
Dindigul District.

... Respondents 2 to 3 / Respondents 1 to 4



W.A(MD)No.1530 of 2024

PRAYER: Appeal filed under Clause 15 of Letters Patent, to set aside the common order dated 27.06.2024 made in W.P.(MD)No.31328 of 2023

For Appellant : Mr.G.Prabhu Rajadurai

For R-1 : Mr.M.Saravanan

JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

The appellant is aggrieved by the order made in W.P.(MD)No.31328 of 2023 dated 27.06.2024, allowing the said writ petition and directing registration of a settlement deed executed by his father in favour of his brother / 1st respondent herein on 05.09.2020. The appellant objected to the registration of the settlement deed by the Sub – Registrar on various grounds. The Sub-Registrar initially rejected the objections. That order of rejection was made in a subject matter of the writ petitions in W.P. (MD)Nos.14834 and 22615 of 2021. Those writ petitions were disposed of by a common order, directing the Sub-Registrar to re-consider the entire claim.

2. After the orders of this Court, the Sub-Registrar by an order dated 10.08.2022, conducted a full fledged trial assumed not only the powers of the Civil Courts but also the powers of the Constitutional Courts and



W.A(MD)No.1530 of 2024

passed a detailed order pronouncing upon the title and character of the property on 10.08.2022. Unfortunately, the said order was confirmed by the District Registrar also. He again wrote a full fledged judgment of the Civil Court and he directed a Civil Suit to be filed within 30 days. A revision presented was rejected as not maintainable. The orders of rejection were questioned before this Court in the instant writ petition in W.P. (MD)No.31328 of 2023. The Writ Court after considering the scope of Section 35 and the powers of the Sub-Registrar to launch upon an enquiry based on an objections held that such rejection order is bad. It therefore directed registration of the document.

3. We have heard Mr.Prabhu Rajaduari, learned counsel appearing for the appellant.

4. Mr.Prabhu Rajadurai would contend that under Section 35(1)(b), the Registrar has the power to decide whether the executant is a minor or an idiot or a lunatic. The rejection order is not on the ground that the person who executed the document is a minor or an idiot or a lunatic. This question was considered by the Sub-Registrar and he concluded that the executant of the document was in a disposing state of mind and had the capacity to execute the document. The correctness of this finding is not put in issue before the Writ Court.



W.A(MD)No.1530 of 2024

5. We do not find any discussion on this question by the Writ Court.

Admittedly, the other grounds that have been stated as reasons for refusal are not within the domain of the Sub-Registrar and hence, the Writ Court has rightly set aside the order of refusal. We therefore do not find any merit in the appeal, accordingly, the appeal is dismissed, leaving it open to the appellant to challenge the settlement deed in the manner known to law before an appropriate Civil Court. Consequently, connected miscellaneous petition is closed. If the appellant chooses to do so, the Civil Court will decide the matter independent of any observation made by this Court in the order in the Writ Court or by us in this order or by the Sub-Registrar. No costs.

[R.S.M., J.]

[L.V.G., J.]

03.09.2024

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



WEB COPY



W.A(MD)No.1530 of 2024
R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

Sml

W.A(MD)No.1530 of 2024

03.09.2024