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W.P.(MD)Nos.25022 of 2022 and 3689 of 2023

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)Nos.25022 of 2022 and 3689 of 2023

and

W.M.P.(MD)Nos.19124 of 2022 and 3464 and 3465 of 2023

W.P.(MD)No.25022 of 2022

1. Vennila

2. P.S.Mohan

... Petitioners

versus

1. The Inspector General of Registrar,
Santhome Road,
Chennai.

2. The District Registrar (Administration)
(Madurai South)
in the capacity as
Additional District Registrar,
Madurai District.

3. The Sub Registrar,
Chekkanoorani,
Madurai District.

4. Karthikeyan

5. Selvam

.... Respondents



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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 of the 2nd respondent dated 28.09.2022 in proceedings Na.Ka.No.3768/A2/2022 and quash the same.

For Petitioners : Mr.RG.Shankar Ganesh
For R1 to R3 : Mr.P.Subbaraj,
Special Government Pleader
For R4 and R5 : Mr.S.Mahendrapathy

W.P.(MD)No.3689 of 2023

P.Pandi

... Petitioner

versus

1. The Inspector General of Registrar,
Santhome Road,
Chennai.
2. The District Registrar (Administration)
(Madurai South)
in the capacity as
Additional District Registrar,
Madurai District.
3. The Sub Registrar,
Chekkanoorani,
Madurai District.
4. Karthikeyan
5. Selvam

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India,



W.P.(MD)Nos.25022 of 2022 and 3689 of 2023

praying for the issuance of a Writ of Certiorari, to call for the records of the 2nd respondent dated 28.09.2022 in proceedings Na.Ka.No.3768/AA2/2022 and the consequential communication dated 30.12.2022 in proceedings Na.Ka.No. 3768/AA2/2022 quash the same as the same is arbitrary, ultravires, excess of jurisdiction.

For Petitioner : Mr.RG.Shankar Ganesh
For R1 to R3 : Mr.P.Subbaraj,
Special Government Pleader
For R4 and R5 : Mr.S.Mahendrapathy

COMMON ORDER

These writ petitions are filed challenging the impugned proceedings dated 28.09.2022 passed by the second respondent.

2. The brief facts of the case are that a property to an extent of 3 acre and 16 cents originally belonged to one Mayakkal. She had four children. During her life time, she sold 1/3rd undivided share to an extent of 1 acre 2 ½ cents to his son, one Pandi, who is the husband of the first petitioner in W.P.(MD)No. 25022 of 2022, vide a registered sale deed dated 27.12.2000. Similarly, the respondents 4 and 5, who are the sons of one Eswari, the daughter of the said Mayakkal, have also purchased 1/3rd undivided share to an extent of 96 ¾ cents from Mayakkal, vide a registered sale deed dated 04.12.2013. After the death of



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the said Pandi, the first petitioner in W.P.(MD)No.25022 of 2022 sold a portion of the property to an extent of 40 cents to the second petitioner in W.P.(MD)No. 25022 of 2022, vide a registered sale deed dated 17.04.2013 in Document No. 692/2013, based on which, he divided the property into several plots and sold the same to third parties. She has also sold another portion of the property to an extent of 20.33 cents to the petitioner in W.P.(MD)No.3689 of 2023, vide a registered sale deed dated 29.04.2022. While so, on 05.05.2022, the respondents 4 and 5 gave a complaint before the Registering Authorities seeking to cancel the sale deed Document No.692 of 2013 executed in favour of the second petitioner in W.P.(MD)No.25022 of 2022 and further document Nos. 1323/2016 and 1377 of 2016 executed by the second petitioner in favour of third parties. Based on that complaint, the 2nd respondent has passed the impugned proceedings holding that the sale deed executed by the first petitioner in W.P.(MD)No.25022 of 2022 in Document No.692/2013, dated 17.04.2013 is a fraudulent one. Challenging the same, the present writ petitions have been filed.

3. The learned counsel appearing for the petitioners submits that there is no legal bar for selling the undivided Hindu Joint Family Property and based on



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the approved layout granted in favour of the 2nd petitioner in W.P.(MD)No. 25022 of 2022, he divided the property into several properties and sold the same to third parties. He further submits that the respondents 4 and 5 have filed a suit for partition in O.S.No.265 of 2020 and the same is pending before the 6th Additional District Munsif Court, Madurai. In the said suit, the respondents 4 and 5 have not claimed any share in the undivided property to an extent of 1 acre 2 ½ cents, which was sold in favour of the husband of the first petitioner in W.P.(MD)No.25022 of 2022. However, the second respondent, without considering the said aspects, has passed the impugned proceedings that the sale deed executed by the first petitioner in W.P.(MD)No.25022 of 2022, in Document No.692/2013, dated 17.04.2013 is a fraudulent one. Therefore, the petitioners are before this Court.

4. The 4th respondent filed a counter affidavit stating that the first petitioner in W.P.(MD)No.25022 of 2022 has sold the undivided Hindu Joint Family Property to an extent of 40 cents and registered the sale deed in favour of the second petitioner in W.P.(MD)No.25022 of 2022 in a fraudulent manner, by not mentioning the name of Mayakkal, who is the mother of her husband. Further, the 2nd petitioner in W.P.(MD)No.25022 of 2022, without marking any



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specific boundaries, divided the property into several plots and sold the same to third parties. Therefore, they gave a complaint before the Registering authorities to cancel the documents. Further, they have filed a partition suit in O.S.No.265 of 2020 and the same is pending before the 6th Additional District Munsif Court, Madurai.

5. Heard the learned counsel appearing for the counsel appearing for the petitioners, the learned Special Government Pleader appearing for the respondents 1 to 3 and also the learned counsel appearing for the respondents 4 and 5.

6. Section 44 of the Transfer of Property Act gives right to the co-sharer to deal with the undivided Hindu Joint Family Property. Since there is no bar under the law to deal with the undivided Hindu Joint Family property, the finding of the 2nd respondent that the sale deed executed by the first petitioner in W.P.(MD)No.25022 of 2022 in favour of the second petitioner in W.P.(MD)No. 25022 of 2022 in Document No.692/2013, dated 17.04.2013 is a fraudulent one, cannot be sustained in the eye of law. Therefore, the impugned proceedings passed by the 2nd respondent is liable to be set aside.



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6. Accordingly, both the writ petitions are allowed and the impugned proceedings passed by the second respondent in Na.Ka.No.3768/A2/2022 dated 28.09.2022 is hereby set aside. No costs. Consequently, connected miscellaneous petitions are closed.

22.08.2024

NCC : Yes/No

Index : Yes/No

Internet: Yes/No.

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To

1. The Inspector General of Registrar,
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Chennai.
2. The District Registrar (Administration)
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N.SATHISH KUMAR, J.

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