



W.P.(MD)No.19978 of 2018

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.19978 of 2018

1. T. Athisayaraja

2. A. Dhanalakshmi

... Petitioners

Vs

1. The Deputy Inspector Of General of Registration,
Integrated Complex of Registration Dept, St. Marks Street,
Near Sankar Colony, Behind John HSS School, Thirunelveli.

2. The Sub-Registrar,
Sathankulam, Office of the Sub-Registrar,
Nos.8,9,10, Swami Sannathi St.,
Sathankulam Tk., Tuticorin District -628 704.

3. The Sub-Registrar, Thovalai,
Office of the Sub-Registrar, No.1/19A,
Opp. to Government Higher Secondary
School, Main Road, Thovalai,
Kanyakumari District.

*4.Kanagaraj
(4th respondent impleaded as per order of this Court,
dated 13.08.2024)

... 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 Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent in Check Slip date 5.9.2018 and quash the same and further directing respondents to receive the Rectification Deed, dated 4.9.2018 and to register the same.

For Petitioner : Mr.M.P.Senthil

For Respondents : Mr.M.Siddharthan (R1-R3)
Additional Government Pleader

Mr.M.Krishna Sreetharan (R4)

ORDER

This Writ Petition has been filed challenging the impugned order passed by the 2nd respondent in Check Slip, dated 5.9.2018 and to direct the respondents to receive the Rectification Deed, dated 4.9.2018 and to register the same.

2.Heard Mr.M.P.Senthil, the learned counsel appearing for the petitioner, Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents 1-3 and Mr.M.Krishna Sreetharan, learned counsel appearing for the 4th respondent. Perused the materials available on record.



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3.It is the case of the writ petitioners that the impugned order has been passed by the respondents to return the rectification deed presented by the petitioners. It is the case of the petitioners that the first petitioner has executed a settlement deed (Doc.No.1298/2009) in favour of the 2nd petitioner on 21.07.2009 in respect of 4 items of properties. The 3rd item of the property admittedly situated within the jurisdiction of the 3rd respondent. However, the document is registered on the file of the 2nd respondent. On receipt of the complaint claiming right over the 3rd item of property, a criminal case has also been registered as against the petitioners. Therefore, now the petitioners want to delete the aforesaid property. When they presented the rectification deed before the 2nd respondent, it was rejected citing the reason that the 3rd item of property situated within the jurisdiction of 3rd respondent. Therefore, the rectification deed has not been registered. Challenging the same, this writ petition has been filed.

4.The learned counsel for the respondent 4th respondent submitted that mere rectification deed will not suffice and by way of rectification settlement deed cannot be cancelled.

5.The learned counsel for the petitioners submitted that they have



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prepared to cancel the settlement deed in respect of item no.3 registered in Doc.No.1298/2009. In that case, the gift deed executed in favour of the second petitioner can be cancelled by both of them, if they joined together and executed the document. Hence, seeks for a direction.

6.As rightly contented by the learned counsel for the 4th respondent that the rectification is only meant to correct the bonafide errors in respect of survey number, boundary and not otherwise.

7.In such view of the matter, it is for the petitioners to cancel the settlement deed with the consent of the 2nd respondent in respect of item no.3. If any such cancellation deed is presented before the 2nd respondent, the same shall be registered and cannot be refused citing that particular property is not situated within the jurisdiction of second respondent. After registration of such document, the 2nd respondent shall forward the copy of the same to the third respondent as contemplated under Section 65 & 66 of Registration Act, 1908.



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8. With the above directions, this writ petition stands disposed of. No

costs.

13.08.2024

NCC : Yes/No
Index : Yes/No
PNM

To

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N.SATHISH KUMAR, J.

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ORDER IN

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