



W.P(MD)No.24895 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.24895 of 2024

and

W.M.P.(MD)No.21172, 21173 and 21175 of 2024

- 1.Mohammad Gani
- 2.Tamilselvi
- 3.M.S.Revathi
- 4.M.S.Amirtharaj Vijay
- 5.M.S.Rajavel
- 6.Sagul Ameer @ Sagul Hameed
- 7.K.Dhanalakshmi
- 8.Sowtha Banu
- 9.N.Ganesan
- 10.Karunambigai
- 11.Pitchai Muthu
- 12.Kannan
- 13.Rajkumar
- 14.K.Karunambigai
- 15.D.Rajesh Kumar
- 16.R.Karthikeyini
- 17.A.Ahmed Hussain
- 18.K.Usha Kumari
- 19.B.Jayapriya
- 20.A.Ilambarithi
- 21.S.Barthasarathy
- 22.S.Bhuvaneswari
- 23.M.Selvaguru
- 24.M.Balaguru Devasenapathy
- 25.S.Gayathri
- 26.S.Lalitha
- 27.R.Arumugam
- 28.R.Gnanasoundari



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29.R.Ramesh
30.Banupriya
31.Nandhini
32.Meera Mohaideen
33.L.Banumathi
34.Asmath Fathima
35.Muthukrishnan
36.Soba
37.Mukunthan
38.Bhuvaneshwari
39.Rajaseakaran
40.Ganesan

... Petitioners

Vs.

1.The District Collector,
O/o.The District Collector,
Dindigul District.

2.The Joint Sub Registrar,
O/o.The District Registrar,
Pazhani, Dindigul District.

3.The District Registrar,
O/o.The District Registrar,
Pazhani, Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.2688/AaBiBi/2024 dated 12.08.2024 passed by the second respondent and quash the same as illegal and subsequently direct the second and third respondents to continue the land registration for the 'A' schedule property mentioned in Doc.No.207/1986 on 14.02.1986 for an extent of 15 acres 24 cents in survey No.43A/1A, 43A/1B, 43A/1C, 43A/1D, 44/2A and 44/2B at Thattankulam Village and 136/1 and 136/2 at Sivagiripatti Village, Pazhani Taluk, Dindigul District.



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For Petitioner : Mr.SMA.Jinnah
For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the respondent directing the third respondent not to register any document in respect of the house sites in Survey No.43/1A.

2.Mr.M.Siddharthan, learned Additional Government Pleader, takes notice for the respondents. By consent of both parties, this writ petition is taken up for final disposal.

3.The brief facts leading to the filing of this writ petition are as follows:

(i)One Ramasubbu owned a land to an extent of 51.74 acres at Pazhani Taluk. He has two wives, three sons and two daughters. The said Ramasubbu executed a registered partition deed dated 14.02.1986 partitioning his properties in favour of his three sons and they are in possession and enjoyment of the property. In the meantime, the daughter of Ramasubbu, had created a forged and unregistered Will dated 05.09.1983 and executed a power



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deed in favour of one Arulkumaran. Based on the same, the said Arulkumaran had executed a sale deed in favour of some third parties.

(ii)After knowing the said illegal transfer, the son of Ramasubbu, namely Ravichandran, has filed as suit in O.S.No.265 of 2014 against his sister, who set up an independent title by way of a Will said to have been executed by her father, for declaration in respect of the property allotted to him on the basis of the partition deed dated 14.02.1986. While disposing the suit, the trial Court has held that the partition deed dated 14.02.1986 is not binding on the daughter of Ramasubbu, since she has not been made as a party to the partition deed dated 14.02.1986 and the partition deed would be valid only in respect of the plaintiff therein alone. The civil Court has come to the conclusion that the subsequent documents based on the said partition deed, dated 14.02.1986 are not valid in the eye of law. Therefore, on the basis of that finding, now the impugned order has been passed.

4.I have perused the entire materials placed on record.

5.Originally, the property was owned by one Ramasubbu. He had three sons and two daughters. A partition deed has been entered among his



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sons on 14.02.1986. The daughters were not included in the partition deed. Be that as it may, now the daughter claimed an independent title on the basis of the Will, which was rejected by the trial court. The daughter has not filed a separate suit for partition till now.

6.Be that as it may, the petitioners' predecessors purchased the subject property on the basis of the allotment made to one of the co-owners, namely Rajendran vide partition deed dated 14.02.1986. Based on that purchase, it appears that a layout has already been developed and the property has been dealt with. Several purchasers including the petitioners have purchased the property to an extent of 3 to 5 cents each. Therefore, even assuming that there was no valid partition, this Court is of the view that it cannot be a ground to be a total bar to sell all the properties. Such being the position, as long as no partition suit is filed by the other co-owner in respect of the property already dealt with and purchased by several persons, those persons cannot be denied their right of enjoyment of their property. It is for the concerned parties to claim necessary partition before the competent civil Court. The petitioners having purchased the properties long back, they are entitled to claim equity even in the event of shares have been allotted to the first defendant in the suit in O.S.No.265 of 2014.



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7. In such view of the matter, this writ petition is allowed and the order passed by the second respondent dated 12.08.2024 is set aside. The second respondent is directed to continue the registration of the subject properties. No costs. Consequently, connected miscellaneous petitions are closed.

21.10.2024

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

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O/o.The District Collector,
Dindigul District.
- 2.The Joint Sub Registrar,
O/o.The District Registrar,
Pazhani, Dindigul District.
- 3.The District Registrar,
O/o.The District Registrar,
Pazhani, Dindigul District.



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N.SATHISH KUMAR, J.

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