



W.A.(MD)No.2066 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2024

CORAM:

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

W.A.(MD)No.2066 of 2024

and

C.M.P.(MD)Nos.14733 & 14734 of 2024

The Sub Registrar,
Sub-Registrar Office,
Bodinayakkanur,
Theni District.

: Appellant

Vs.

A.M.Eshwaramoorthy

: Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent,
praying to set aside the order passed in W.P.(MD)No.22102 of 2024
dated 18.09.2024.

For Appellant	: Mr.P.Veera Kathiravan, Additional Advocate General Assisted by Mr.P.Subbaraj Special Government Pleader
For Respondent	: Mr.P.Saravana Kumar



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JUDGMENT

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

Challenge is to the order of the learned Single Judge made in W.P.(MD)No.22102 of 2024 dated 18.09.2024.

2.A refusal check slip issued by the Sub-Registrar was quashed by the Writ Court and the Writ Court directed the registration of the sale deed executed by the first respondent. Aggrieved, the Sub-Registrar is on appeal.

3.The brief facts that lead to the filing of the writ petition are as follows:

3.1.The property in question belong to one Arumugam Servai, who executed the settlement deed in favour of his first wife Palaniammal on 30.09.1960, which was registered as Document No.3048 of 1960. The said Arumugam Servai however entered into a partition deed, according to the petitioner, with the children of his illegitimate second wife on 28.02.1995 and the said partition deed was registered as Document No.622 of 1995. After having registered the partition deed, the said Arumugam Servai by the deed of cancellation dated 20.11.2000, unilaterally cancelled the settlement deed executed by him on 30.09.1960. Mother of the first



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respondent Sethuramayi, daughter of Palaniyammal filed W.P. (MD)No.16572 of 2017, challenging the said cancellation and this Court by judgment dated 29.11.2017 held that the cancellation is invalid. Claiming that once the cancellation has been held to be invalid, Palaniammal would get title and on the death of Palaniammal, her daughter Sethuramayi will inherit the property and that said Sethuramayi had executed a Will in favour of the first respondent and the first respondent claimed title to the property.

3.2.The Sub-Registrar refused to register the instrument on the ground that the 1995 partition deed is there and the claimants under the 1995 deed have executed a mortgage in favour of a third party. The Writ Court concluded that once cancellation of the settlement deed by Arumugam Servai in the year 2000 is held to be invalid then, Palaniammal would become owner of the property and on her death, Sethuramayi would inherit the property and therefore, the Will in favour of the respondent would give valid title to the property. On the said conclusion, the Writ Court quashed the Refusal Check Slip and directed registration.

4.We are not able to gather from the appeal grounds as to how the Sub-Registrar who is the appellant is affected by this order. If at all anybody is to be affected by this order, it will be the rival claimants. In the present days, we often find Sub-Registrars



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filing appeals against the directions to register instrument, in the absence of any grievance or any consequence for them. This is a deplorable trend. The duty of the Sub-Registrar is to register an instrument after satisfying himself with the sufficiency of the stamp duty. The Sub-Registrar cannot go into the title of the executant of the instrument. This law has been unsettled by certain Rules that have been brought into place in the Registration Act without proper legal sanction or statutory sanction under the provisions of the Act itself. To a certain extent this Court has also contributed to introduction of such unsavoury Rules in the Registration Rules. Unfortunately, some hard cases where fraud is played upon by certain unscrupulous persons have lead to sweeping directions by this Court which have been taken advantage of by the authorities to empower the Sub-Registrars to adjudicate upon civil cases regarding title to the properties.

5.Be that as it may, in the case on hand, we find that there is no cause for the Sub-Registrar to appeal against the decision of the learned Single Judge. As rightly pointed out by the learned Single Judge, once the cancellation of the settlement deed is set aside by this Court by its judgment in W.P.(MD)No.16572 of 2017, Palaniammal's title gets settled and her daughter Sethuramayi inherits the property and upon such inheritance, she is empowered to dispose it of in whatever manner she likes. In exercise of such



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power, she had executed a Will in favour of the first respondent herein. Hence, we are unable to interfere with the order of the learned Single Judge for having directed registration of the instrument.

6.Accordingly, the Writ Appeal stands dismissed. This time we spare cost and if we come across any appeals by Sub-Registrars in future, we will be forced to levy a compensatory cost. Consequently, connected miscellaneous petitions are closed.

[R.S.M.,J.] & [L.V.G.,J.]
23.10.2024

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR



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To
The Sub Registrar,
Sub-Registrar Office,
Bodinayakkanur,
Theni District.



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R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

MR

JUDGMENT MADE IN
W.A.(MD)No.2066 of 2024

23.10.2024