



W.P(MD)No.28523 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.11.2024

PRONOUNCED ON : 05.12.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.28523 of 2024

1.J.Uthayakumar
2.E.Balasubramanian

... Petitioners

Vs

The Sub-Registrar,
Theni.

... Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned refusal check slip in Na.Ka.No. 1078 of 2024 dated 20.11.2024 and quash the same and consequently direct the respondent to register the sale deed dated 20.11.2024 executed by the first petitioner in favour of the second petitioner and release the same within the time frame fixed by this Court.

For Petitioners : Mr.H.Arumugam

For Respondent : Mr.D.Sadiq Raja
Additional Government Pleader

: Mr.M.Joseph Thatheus Jerome
for Mr.P.Sivachandran



W.P(MD)No.28523 of 2024

ORDER

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This Writ Petition has been filed by the petitioners challenging the refusal check slip issued by the respondent dated 20.11.2024, thereby refusing to register the sale deed dated 20.11.2024 executed by the first petitioner in favour of the second petitioner on the ground that there is a title dispute and directed the petitioners to approach the civil Court for appropriate relief.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The property comprised in Survey No.216/1 to an extent of 4.94 acres situated at Thappukundu Village, Theni Taluk, Theni District under New Patta No.852 was originally purchased by the first petitioner's father late M.Jayaram by the registered sale deed dated 06.12.2010 vide Document No.12088 of 2010. Thereafter, the first petitioner's father executed a Will dated 13.08.2017 thereby bequeathing the said property along with other properties in favour of the first petitioner. After execution of the



W.P(MD)No.28523 of 2024

Will, the first petitioner's father died on 14.08.2017. In turn, the first petitioner sold the property in favour of the second petitioner, executed a sale deed dated 20.11.2024 and presented the same for registration before the respondent. However, it was refused to register the same on the ground that as per the orders passed by this Court in W.P.No.12384 of 2020, dated 11.09.2020 by the Principal Bench of this Court and also as per the Circular issued by the Inspector General of Registration, dated 08.11.2013, the sale deed must enclose the encumbrance certificate in respect of the subject property. A perusal of the impugned order would reveal that in respect of the subject property one K.Jegadheesan had executed a settlement deed in favour of his minor son J.Govendhan in respect of the very same property registered vide Document No.5966 of 2017 deriving title by the Will dated 20.05.2021 executed by the first petitioner's father.

4.The learned counsel appearing for the petitioners would submit that the said Jegadheesan had no title over the property and fraudulently had executed a settlement deed vide registered Document No.5966 of 2017. Therefore, if a person sells a property without any title over the property, there is no provision in



W.P(MD)No.28523 of 2024

the Registration Act, 1908 to reject any deed for registration except under Sections 22-A and 22-B of the Registration Act, 1908.

Therefore, subsequently, the person, who has title over the property presented the deed of conveyance, it should not be denied for registration. Therefore, the Registering Authority cannot refuse to register any document merely because there are other entries in the encumbrance. The said Jegadheesan is no way related to the first petitioner's family whereas the first petitioner alone is being the legal heir of the deceased Jayaram derived title over the subject property by way of a Will dated 13.08.2017. In support of his contention, the learned counsel appearing for the petitioners relied upon the order of this Court in **W.P(MD)No.23779 of 2024, dated 04.10.2024 [S.Selvaraj and others Vs. The Sub Registrar, Kadayanallur]**, wherein it is held as follows:

'4.At the outset, merely because entry has been made in respect of the subject property by some third party, the document cannot be refused. Whether the third party or the petitioner has right over the subject property, is the matter of evidence to be decided only before the competent civil Court by adducing evidence. The Sub Registrar cannot go into those aspect and decide the title. When the first petitioner presented the document along with all the title deeds, it is for the respondent to register the same.'



W.P(MD)No.28523 of 2024

5.He relied upon another Judgment of the Hon'ble Division Bench of this Court reported in **2011 (1) CTC 283** in the case of **V.K.Amalraj Vs. The Inspector General (Registrations) and others**, wherein it is held as follows:

'11.A close reading of the said Rule would show the registering authority is bound to consider the objection only on the ground which is stated in the said Rule. Rule 55 does not provide enquiry by the Registering Officer with regard to the right and ownership of the seller. Thus, the authorities concerned are bound to act only in accordance with the Act and Rules framed thereunder. The authorities cannot be directed to act contrary to the provisions of the statute.'

6.He also relied upon the order of this Court reported in **2024 (3) MLJ 558** in the case of **Subramani Vs. Sub Registrar and another**, wherein this Court held that the Registrar cannot refuse to register the document on the basis of objections raised by a rival claimant, who has a different source of title. Further, an enquiry into the title of the executant is beyond the powers of the Sub Registrar. Therefore, merely on the grounds of protest petitions and objections raised by some third party, the document cannot be refused to be registered.



W.P(MD)No.28523 of 2024

7. On perusal of the records placed before this Court and on the submissions made by the learned Additional Government Pleader appearing for the respondent would reveal that in respect of the very same property already one Jegadheesan claimed title over the property and had executed a settlement deed vide Document No.5966 of 2017 in favour of his minor son J.Govendhan. He derived title over the property by way of a Will executed by the first petitioner's father dated 20.05.2011. The subject property was originally purchased by the first petitioner's father by the registered sale deed vide Document No.12088 of 2010. Whereas the first petitioner claimed title over the property by way of Will, dated 13.08.2017 executed by his father late M.Jayaram. The said Will is unregistered one and the very next day ie., on 14.08.2017, his father died. Further, the first petitioner filed a petition to probate the Will executed by his father in favour of him in Probate O.P.No.2 of 2017 before the Principal District Court, Theni and it is pending. That apart, the first petitioner's sister-in-law one Raji also filed a suit in O.S.No.72 of 2019 on the file of the Additional District Court, Theni, challenging the Will dated 13.08.2017 and it is also pending. The said Raji is also one of the respondents in the Probation Original Petition filed by the first petitioner. Therefore, the Will which was executed in favour of the first petitioner is under probation and is



W.P(MD)No.28523 of 2024

under challenge before the civil Court. Even before that, the first petitioner had executed a sale deed in favour of the second petitioner. It is settled law that the Registering Authority cannot refuse to register the document on the basis of the objections raised by the rival claimant and also on the ground of protest petitions, except under Sections 22-A and 22-B of the Registration Act, 1908. Further, Rule 55 of the Tamil Nadu Registration Rules does not provide any enquiry by the registering authority with regard to the rights and ownership of the vendor.

8.In the case on hand, admittedly, the subject property was already settled by one Jagadheesan in favour of his minor son J.Govendhan registered vide Document No.5966 of 2017. The said Jagadheesan is also claiming title by the Will dated 20.05.2011. But the first petitioner claimed title over the property by the Will dated 13.08.2017 which is under probation in Probate Original Petition No. 2 of 2017 on the file of the Principal District Court, Theni. That apart, the said Will is also under challenge in O.S.No.72 of 2019 on the file of the Additional District Court, Theni, filed by the first petitioner's sister-in-law one Raji, who is none other than the wife of the first petitioner's brother. Therefore, admittedly, the title in



W.P(MD)No.28523 of 2024

respect of the subject property is in dispute. Therefore, the above Judgments cited by the learned counsel appearing for the petitioners are not helpful to the case on hand. Hence, the respondent rightly refused to register the sale deed dated 20.11.2024 which was executed by the first petitioner in favour of the second petitioner for registration. In view of the above, this Court finds no infirmity or illegality in the refusal check slip issued by the respondent dated 20.11.2024. Accordingly, the Writ Petition is liable to be dismissed and the same is dismissed. There shall be no order as to costs.

**05.12.2024
(1/2)**

NCC : Yes / No
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Internet : Yes
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W.P(MD)No.28523 of 2024

To

The Sub-Registrar,
Theni.



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W.P(MD)No.28523 of 2024

G.K.ILANTHIRAIYAN, J.

ps

Order made in
W.P(MD)No.28523 of 2024

**05.12.2024
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