



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2025

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CORAM :

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

Writ Petition No.4972 of 2025

1.G.Balakrishnan

2.B.Renuka

3.B.Satish

4.B.Sharmila

.... Petitioners

-Vs-

1.The District Registrar (Audit)
Tiruppur.

2.The Joint-I-Sub Registrar
Tiruppur.

3.Shankar Jagannathan

4.Sridhar Jagannathan

5.Shalini Jagannathan

.. Respondents

Prayer : Writ Petition 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 of the 1st respondent made in Na.Ka.No.851/A5/2022, dated



03.09.2024 and quash the same, consequently direct the respondents 1 & 2 to remove the entry of preliminary decree dated dated 28.07.2020 made in O.S.No.582 of 2001 from the encumbrance certificate in light of the Appellate Court's judgement in AS.No.4 of 2021 dated 23.09.2021 confirmed by this Court in S.A.Nos.251 fo 2022, etc dated 11.06.2024.

For Petitioners : Mr.V.Anandhamurthy

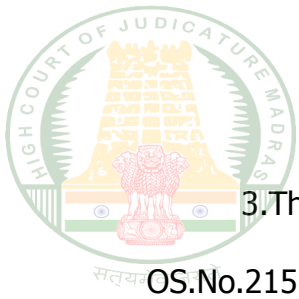
For Respondents : Mr.P.Harish
Government Advocate
for R1 & R2

No appearance for R3 to R5

ORDER

This writ petition has been filed challenging the impugned proceedings of the 1st respondent dated 03.09.2024 and for a consequential direction to respondents 1 and 2 to remove the entry that was made in the encumbrance register while registering the preliminary decree that was passed in OS.No.582 of 2001 dated 28.07.2020.

2.Heard Mr.V.Anandhamurthy, learned counsel for the petitioners, Mr.P.Harish, learned Government Advocate for R1 & R2. Respondents 3 to 6 have been served with notice and their names have also been printed in the cause list and there is no appearance either in person or through counsel.



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3.The case of the petitioners is that a suit was filed against the 1st petitioner in OS.No.215 of 1985 on the file of Sub Court, Tiruppur. One late Govindaraj impleaded himself as a party to the suit since he had been allotted shares in the property. Ultimately, it ended in a compromise and a compromise decree was passed on 30.07.1986. Shares were allotted in favour of the 1st petitioner and his mother and on the strength of the decree passed in OS.No.215 of 1985, the mother of the 1st petitioner sold her share in the property. The shares that were allotted in favour of the 1st petitioner was enjoyed as the exclusive property of the 1st petitioner. Thereafter, the property was divided as among the petitioners.

4.The further case of the petitioners is that the said Govindaraj suppressed the earlier compromise decree and filed a suit in Os.No.582 of 2001, before the Additional Sub Court, Tiruppur. This suit was contested by the petitioners. This was tried along with the connected suit in OS.No.194 of 2006 and it was heard along with OS.No.413 of 2003. A preliminary decree was passed stating that respondents 3 to 5 will be entitled for 2/3rd share in the property. Aggrieved by the same, three appeals were filed in AS.Nos.4/2021, 16/2021 and 2/2021, before the Principal District Judge, Tiruppur. All the three appeals were allowed by judgement and decree dated 23.09.2021. In the meantime, the preliminary decree that was passed in OS.No.582/2001 came to be registered before the 2nd respondent as Document No.3611/2021.



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5.The judgement and decree passed in the appeal suits came to be challenged in SA.Nos.251, 289, 552 of 2022 and SA.No.100 of 2023. All these second appeals came to be dismissed by judgement dated 11.06.2024. Thereby, the judgement and decree passed in the appeal was confirmed.

6.The petitioners submitted application seeking for the removal of the entry that was made in the encumbrance register pursuant to the registration of the preliminary decree considering the subsequent developments. However, the same came to be rejected by the 1st respondent through proceedings dated 03.09.2024 on the ground that there is no such power available under Section 77A of the Registration Act or under Section 68(2) of the Registration Act. Aggrieved by the same, the present writ petition has been filed before this Court.

7.In the considered view of this Court, there is no need for the 1st respondent to exercise powers under Section 77A or under Section 68(2) of the Registration Act. This is in view of the fact that the preliminary decree which was registered as Document No.3611/2021 ceases to exist pursuant to the judgements that were passed in the appeal suits which was further confirmed in the second appeals by this Court. Therefore, there is no determination of any rights between the parties and the petitioners merely sought for giving effect to the subsequent judgements and decrees that were passed in the appeal suits and in the second appeals.



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8.In the light of the above discussion, there shall be a direction to the 2nd respondent to delete the entry that was made while registering the preliminary decree passed in O.S.No.582 of 2001 in Document No.3611/2021 and this process shall be completed within a period of two weeks from the date of receipt of copy of the order. While deleting the entry the order passed in the present writ petition can be entered in the encumbrance register.

9.In the result, this writ petition is allowed with the above directions. No costs.

04.04.2025

Index : Yes/No
NCS : Yes/No
KP

To

1.The District Registrar (Audit)
Tiruppur.

2.The Joint-I-Sub Registrar
Tiruppur.



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N.ANAND VENKATESH, J.

KP

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