



WA No. 1421 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-09-2025

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CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR JUSTICE C. SARAVANAN**

WA No. 1421 of 2022

1. J.Gopi
S/o. Jayaraman

Appellant(s)

Vs

1. NirmalaSankaran
W/o. Late Shri. Muthiah Sankaran

2.The Inspector General of Registration
Santhome, Chennai.

3.The District Registrar
Chennai North

4.The Sub Registrar
Konnur, No.5/5, 4th Main Road,
SIDCO Nagar,
Villivakkam, Chennai-600 079.

5.The HDFC Bank
Ceebros Building, I Floor, B Wing



No.110, Nelson Manickam Road,
Aminjikarai, Chennai-600 029.

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6. The Sub Registrar
Villivakkam, Chennai.

Respondent(s)

PRAYER

To set aside the order dated 27.04.2022 passed in WP No.6272 of 2022 and allow the present writ appeal.

For Appellant(s): Mr.B.Manoharan

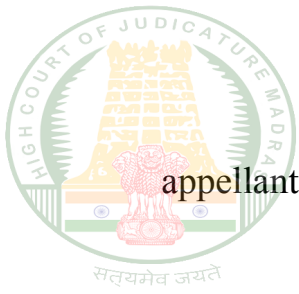
For Respondent(s): Mr.K.Venkat Ramani
Senior Counsel
for Mr.M.Muthappan for R1
Mr.U.Baranidharan
Special Government Pleader for R2-4 & 6
Mr.N.Zahid Ahmed
for M/s.AAV Partners for R5

ORDER

(Order of the Court was made by S.M.Subramaniam J.)

The 4th respondent in the writ petition has preferred the present intra-court appeal under Clause 15 of the Letters Patent.

2. The 1st respondent, Smt.Nirmala Sankaran, instituted writ proceedings seeking a direction to the respondents 2, 3 and 4 herein to cancel/annul the sale deed dated 09.03.2020, registered as Document No.1299 of 2020, executed by the 1st respondent's husband Late Shri. Muthiah Sankaran, in favour of the



appellant, J.Gopi.

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3. The Writ Court adjudicated the issues and issued multiple directions, holding that the Sale deed is null and void, and further granted consequential directions. The directions issued by the Writ Court, in the opinion of this Court, is beyond the scope of the powers of judicial review conferred under Article 226 of the Constitution of India. Civil disputes between the parties cannot be adjudicated in a writ proceeding. Civil rights ought to be established based on the original documents and evidences, including oral evidence, before the Civil Court in trial nature proceedings.

4. The learned Senior Counsel appearing on behalf of the 1st respondent would mainly contend that the Sale deed is null and void, since the sale consideration has not been paid. When the 1st respondent could able to establish that the sale consideration was not settled, the Writ Court rightly granted the relief. In support of the contentions, the learned Senior Counsel would rely on the judgment of the Hon'ble Supreme Court of India in the case of ***Kaliaperumal Vs. Rajagopal And Another***¹. He would rely on the observations made by the Apex Court in Paragraphs Nos.18 & 19, and the relevant portion reads as follows,

“18. Normally, ownership and title to the property will pass to the purchaser on registration of the sale deed with effect from the date of execution of

¹ 2009 4 SCC 193



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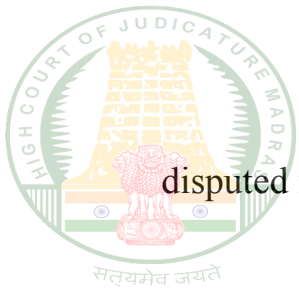
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the sale deed. But this is not an invariable rule, as the true test of passing of property is the intention of parties. Though registration is prima facie proof of an intention to transfer the property, it is not proof of operative transfer if payment of consideration (price) is a condition precedent for passing of the property.

19. The answer to the question whether the parties intended that transfer of the ownership should be merely by execution and registration of the deed or whether they intended the transfer of the property to take place, only after receipt of the entire consideration, would depend on the intention of the parties. Such intention is primarily to be gathered and determined from the recitals of the sale deed. When the recitals are insufficient or ambiguous the surrounding circumstances and conduct of parties can be looked into for ascertaining the intention, subject to the limitations placed by [Section 92](#) of Evidence Act.”

5. This Court is unable to agree with the learned Senior Counsel, since the Hon'ble Supreme Court has dealt with an order passed in the S.A.No.1435 of 1990. Thus, it is a suit that was instituted and went up to the Hon'ble Supreme Court of India. That apart, in Paragraph No.17 of the said judgment, the Hon'ble Supreme Court has observed that "*In the event of non- payment of price (or balance price, as the case may be) thereafter, the remedy of the vendor is only to sue for the balance price.*" Even in cases of a non-dispute regarding passing on the sale consideration, Order XII rule 6 would apply, and the remedy would lie before the competent Civil Court. However, the Writ Court cannot decide the



disputed facts of civil nature by conducting a roving enquiry.

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6. Article 226 of the Constitution of India would not empower the Writ Court to annul the sale deed registered under the provisions of the Registration Act. The writ petition seeking the relief to declare the sale deed as null and void by itself is not maintainable. Thus, the impugned order passed by the Writ Court is not in consonance with the established legal position settled by the Constitutional Courts. Thus, the writ appellant is entitled to succeed. This Court made it clear that the multiple directions issued by the Writ Court would not affect the rights of the parties in the event of adjudication of the issues before the competent Civil Court.

7. Consequently, the writ order impugned dated 27.04.2022 in W.P.No.6272 of 2022 is set aside and the Writ Appeal stands allowed. No costs. Consequently, the connected miscellaneous petitions, if any, are closed.

(S.M.SUBRAMANIAM J.)(C.SARAVANAN J.)

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gd

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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1.NirmalaSankaran

W/o. Late Shri. Muthiah Sankaran,
No.14, 2nd Cross Street, HIG-II-Phase
1, Nolambur, Mogappair West,
Chennai-600037.

2.The Inspector General of Registration
Santhome, Chennai.

3.The District Registrar
Chennai North

4.The Sub Registrar
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