



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2025

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CORAM :

THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P. No. 21878 of 2025

1. V. Arivalagan

2. V. Kannan

... Petitioners

Vs.

The District Registrar,
District Collectorate,
Namakkal, Namakkal District.

... Respondents

Prayer: This Writ Petition has been filed under Article 226 of the Constitution of India seeking Writ of Mandamus or any other appropriate writ, directing the respondent to remove the adverse encumbrance remarks made pursuant to the proceedings in Mu.Mu.No.5804/B6/2021 dated 20.01.2022, which declared Document Nos.3017/2020 and 873/1999 as fraudulent and illegal, and to efface/delete the said remarks from the Encumbrance Certificate and all relevant records relating to the petitioner's properties, within a reasonable time period to be fixed by this Hon'ble Court, based on the petitioner's legal notice dated 26.09.2024 and the subsequent representation dated 09.12.2024.

For Petitioners : Mr. C.Rajakumar

For Respondent : Mr.U.Baranidharan,
Special Government Pleader

**ORDER**

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By consent of learned counsel on both sides, this writ petition is taken up for final disposal at the admission stage itself.

2. The present writ petition is filed praying for a writ of mandamus to direct the respondent to remove the adverse encumbrance remarks, made pursuant to the proceedings dated 20.01.2022 declaring Document Nos.3017/2020 and 873/1999 as fraudulent and illegal and to delete the said remark from the Encumbrance Certificate.

3. It is submitted by the learned counsel for the petitioners that the petitioners and their mother Selvi executed a registered partition deed dated 20.05.1999, bearing Document No.873/1999 on the file of the Sub Registrar Office, Senthamangalam. At the time of execution, both petitioners were minors. Hence, petitioners' mother was entrusted with the administration and enjoyment of the properties. Upon attaining majority, the petitioners began to enjoy the said property jointly with their mother. Thereafter, minor disputes arose among the petitioners and their mother with respect to ownership and independent possession. To resolve the same, petitioners and their mother executed a second partition deed dated 19.10.2020, registered as Document



No.3017/2020, before the Sub Registrar Office, Senthamangalam.

3.1. It is submitted by the learned counsel for the petitioners that when the petitioners attempted to alienate/mortgage the subject property, petitioners were informed that Document No.3017/2020 had been declared fraudulent and the earlier registered partition deed Document No.873/1999 dated 20.05.1999 as illegal by the respondent herein, vide proceedings in Mu.Mu.No. 5804/B6/2021 dated 20.01.2022. It is further submitted that adverse remarks were recorded in the Encumbrance Certificate stating that Document No.3017/2020 and Document No.873/1999 was registered without submission of legal heirship certificate and that further transactions based on said document should not be permitted.

3.2. It is submitted by the learned counsel for the petitioners that the petitioners have not yet been served with the copy of the proceedings in Mu.Mu.No. 5804/B6/2021 dated 20.01.2022, cancelling the partition deed as fraudulent, invoking Section 77A of the Registration Act. It is further submitted that Section 77 A of the Registration Act, has been held to be unconstitutional by a Division Bench of this Court in a batch of cases in W.P.No.10291 of 2022 and therefore any orders made thereunder must be treated as non est and therefore the consequential entries would also have no sanctity.

3.3. It is submitted by the learned counsel for the petitioner that the petitioner sent multiple representations, including a detailed representation dated

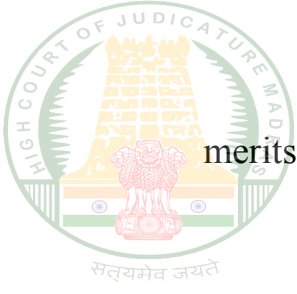


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09.12.2024 and legal notice dated 26.09.2024 to the respondent wherein the petitioners sought for a copy of the order in Mu.Mu.No. 5804/B6/2021 dated 20.01.2022 and removal of the remarks in the encumbrance certificate. However, no action has been taken by the respondent till date. Aggrieved by the same the present writ petition has been filed before this Court.

4. At this juncture the learned Special Government Pleader would submit that if a request is made by the petitioner a copy of the order in Mu.Mu.No. 5804/B6/2021 dated 20.01.2022 would be furnished to the petitioners within 3 days of receipt of such request, agreed to by the learned counsel for the petitioner.

5. In view thereof, the writ petition stands disposed of. It is open to the petitioner to submit a representation seeking copy of the order in Mu.Mu.No. 5804/B6/2021 dated 20.01.2022. If any such representation/request is made the respondents are directed to furnish the same to the petitioner within a period of 3 days from such representation. It is thereafter open to the petitioner to workout his remedy in the manner known to law against the above order. It is made clear that this Court has not expressed any views with regard to the merits of the case and it is open to the concerned respondent to consider the matter on its own



W.P. No.2187



merits and in accordance with law. No costs.

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Index: Yes/No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No

To:

The District Registrar,
District Collectorate,
Namakkal, Namakkal District.



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MOHAMMED SHAFFIQ, J.

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