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W.P.No.26945 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2025

CORAM :

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

Writ Petition No.26945 of 2024

K.Sathish

.... Petitioner

-Vs-

1.The State of Tamil Nadu Rep.by its
The Principal Secretary to Government
Registration Department
Secretariat, Fort St.George
Chennai 600 009.

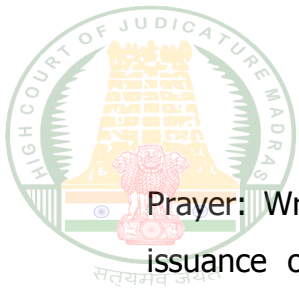
2.The Inspector General of Registration
100, Santhome High Road
Millima Nagar
Mandavelipakkam
Raja Annamalai Puram
Chennai 600 028.

3.The District Registrar
The District Registrar Office
Villupuram 605 602.

4.The Sub-Registrar
Kandamangalam Sub-Registration Office
Villupuram District.

5.M.Jagadeesan

..Respondents



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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 in RFL / Kandamangalam /39/2024 in No.TP / 189830234/ 2024 dt.01.08.2024 passed by the 4th respondent and quash the same and consequently to direct the 3rd and 4th respondents to receive the sale deed No.TP / 189830234/ 2024 dt.01.08.2024 and register the same.

For Petitioner : Mr.S.Natarajan

For Respondents : Mr.U.Baranidharan
Special Government Pleader
for R1 to R4

Mr.T.Saikrishnan for R6

ORDER

This writ petition has been filed challenging the refusal check slip issued by the 4th respondent dated 01.08.2024 and for a consequential direction to the 3rd and 4th respondents to receive the sale deed dated 01.08.2024 and to register the same.

2.The petitioner claims to be the owner of the property in Survey No.569/11A. He wanted to sell this property and accordingly a sale deed dated 01.08.2024 was executed and it was presented for registration before the 4th respondent. The 4th respondent through the impugned refusal check slip dated 01.08.2024, refused to register the document on the ground that there is a title dispute regarding the



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property between the petitioner and the private respondents. The same has been put to challenge in the present writ petition.

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3. When the matter came up for hearing on 05.02.2025, this Court passed the following order:

This Court heard the learned counsel on either side.

2. The entire dispute hinges upon the ownership of the property pertaining to S.No.569/11A. The petitioner claims that the sixth respondent is the owner of S.No.569/11B whereas by mistake, when the sale deed was executed in favour of the sixth respondent, it was mentioned as S.No.569/11A. As a result, the document that was presented for registration by the petitioner was refused to be registered since the property in S.No.569/11A has already been dealt with in the earlier sale deed.

3. This Court directed the Tahsildar, Vikravandi Taluk to make a spot inspection and to submit a report. Further, the report dated 20.1.2025 has been submitted before this Court with the following findings :

"1. The petitioner Sathish is owner of property in S.No.569/11A - 00332 sq.m and his title deed were registered with correct four boundary and survey number details.

2. The 6th respondent is the owner of property in S.No.569/11B - 00168 sq.m.

3. Even though Mr.Jagadeesan has executed the sale deed dated with correct four boundary details but mentioned



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incorrect survey number details as 569/11A, instead of mention as S.No. 569/11B."

4. *The learned counsel appearing for the sixth respondent has vehemently opposed the said findings of the Tahsildar in the report submitted before this Court. He has submitted that his vendor was the owner of S.No.569/11 to an extent of 334 sq.meters (3,597 sq.ft.). Thereafter, the said property was conveyed in favour of the sixth respondent through the sale deed dated 11.2.2010. At that point of time, it has been clearly mentioned that the property that was conveyed is S.No.569/11A and the extent is 3,597 sq.ft. (334 sq.meters). In view of the same, it is submitted that the said report submitted by the Tahsildar cannot go against the title deed of the sixth respondent.*

5. *In reply to the above submissions, the learned counsel for the petitioner; by placing reliance on the judgment of the Apex Court in the case of Joseph John Peter Sandy Vs. Veronica Thomas Rajkumar [reported in 2013 (3) SCC 801], has submitted that in so far as rectification of the instrument is concerned, Section 26 of the Specific Relief Act cannot be resorted to for rectifying the document of a third party. Therefore, it is further submitted that the petitioner cannot even go before the competent civil court to agitate his rights. The learned counsel for the petitioner has also submitted that the petitioner does not dispute the title of the sixth respondent with respect to S.No.569/11B and that the petitioner is accepting the title of the sixth respondent to an extent of 8.14 cents.*

6. *The learned counsel for the sixth respondent seeks for some time to file a counter along with typed set of papers.*

7. *Post on 19.2.2025 under the caption 'part heard cases'.*



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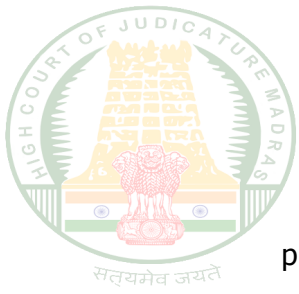
4. When the matter was taken up for hearing today, the 6th respondent has filed a counter affidavit and the relevant portions are extracted hereunder:

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4.I deny the averments and contention in para-3 of the affidavit, after perusal of the Encumbrance certificate and settlement deed vide Doc.No.442 of 1978 executed by One Padmanaba Pillai in favour of one Kumarasamy Pillai, who is none other than the grand father of the petitioner herein. The settlement Deed clearly stated that the Padmanaba Pillai got the property through Partition deed and that the deed clearly established that he is the owner of the extent of 3 cents in S.No.569/11. After executing the settlement deed the above said Mr.Padmanaba Pillai did not have any land in the old S.No.569/11 or New S.No.569/11A at Chinnababu Samuthiram. Therefore the said Padmanaba Pillai has lost his rights on the said property after executing the settlement deed vide Doc.No.442 of 1978. I further submit that no one can give what they do not possess as per maxim "nemo dat quod non habet". Therefore the execution of the Deed of Will in favour of the petitioner's father is not valid before the eye of law. As such the subsequent deeds registered based on the Will dated 03.11.2023 vide Doc.No.27/BK4/2003 are null and void.

5.I deny the averments in para 4 and 5 and submit that I purchased the property from the 5th respondent. And the 5th respondent purchased the said extent from G.Ramalingam and his sons R.Murugananthan and R.Dayanithi by way of registered sale deed dated 07.05.2008 vide doc no.482/2008 much before the alleged will came into effect on 01.04.2009. Hence, I am the lawful owner of the above extent of the property.

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11.I respectfully submit that I am the absolute owner of the property measuring 332 sq.mtrs (3597 sq.ft) of land in S.No.569/11A; Old S.No.569/11 situated at Manthaiveli Street, Chinnababu Samuthiram Village, within the limit of Kandamangalam Sub Registration Office limit. Therefore, if at all, the petitioner disputing the title of this respondent, he must resort to appropriate civil proceedings for adjudication of the alleged claim to establish his title and this writ petition is not maintainable.

5.Heard Mr.S.Natarajan, learned counsel for the petitioner, Mr.U.Baranidharan, learned Special Government Pleader for R1 to R4 and Mr.T.Saikrishnan, learned counsel for R6.

6.There is a genuine dispute regarding the title to the property in Survey No.569/11A. Hence, the impugned refusal check slip issued by the 4th respondent cannot be faulted. The petitioner has to necessarily workout his remedy before the competent Civil Court and seek for the relief of declaration since the 6th respondent is also claiming title over the property in Survey No.569/11A. Except giving this liberty, no further orders can be passed in this writ petition.

7.This writ petition is disposed of in the above terms. No costs.

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Index : Yes/No
NCS : Yes/No
KP



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- To
- 1.The Principal Secretary to Government
State of Tamil Nadu
Registration Department
Secretariat, Fort St.George
Chennai 600 009.
 - 2.The Inspector General of Registration
100, Santhome High Road
Millima Nagar
Mandavelipakkam
Raja Annamalai Puram
Chennai 600 028.
 - 3.The District Registrar
The District Registrar Office
Villupuram 605 602.
 - 4.The Sub-Registrar
Kandamangalam Sub-Registration Office
Villupuram District.

N.ANAND VENKATESH, J.



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