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W.P.No.875 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.875 of 2025

Mr.V.Vajiravel

... Petitioner

Vs.

1.The Sub-Register,
Dharmapuri West,
Dharmapuri - 636 701.

2. The Tahsildar,
Nallampalli Taluk,
Dharmapuri District - 636 807.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, to call for the entire records passed by the first respondent in RFL/Dharmapuri West/181/2024 dated 12.11.2024 quash the same and subsequently direct the first respondent to register the settlement deed dated 11.11.2024 executed by the petitioner in favour of his son within a stipulated period.

For Petitioner : Mr.C.Umashankar

For Respondents : Mr.M.Shahjahan,
Special Government Pleader



ORDER

WEB COPY Challenging the refusal cheque slip dated 12.11.2024 issued by the first respondent refusing to register the Settlement Deed dated 11.11.2024 executed by the petitioner in favour of his son, the petitioner is before this Court.

2. The facts are briefly set out herein below:

(i) The property which is the subject matter of the above Writ Petition originally belonged to one Chinnammal, W/o. Perumal Gounder. During her lifetime, the said Chinnammal along with her legal heirs had alienated an extent of 1.12 acres of land in Palayam Village, Nallampalli Taluk, Dharmapuri District, and she had sold the said property in parts in the following manner :

a) 0.47 cents were sold under the deed dated 20.07.1988 to one Ramalingam.

b) 0.37 cents was sold to the petitioner herein under the sale deed dated 20.07.1988.

(ii) After these two transactions, Chinnammal was left with an extent of 0.28 cents of land in the said Survey Number namely S.No.450/2B in Palayam Village.



(iii) Despite the fact that Chinnammal was left with only 0.28 cents after the sale in favour of the petitioner and Ramalingam, she along with her legal heir had sold an extent of 0.51 cents of land to one Duraisamy under the registered Document dated 24.06.1994. This fact was not within the knowledge of the petitioner until recently.

(iv) On 22.11.1995, Ramalingam had also sold 0.47 cents of land which he had purchased from Chinnammal in favour of said Duraisamy.

(v) In 1998, Duraisamy submitted an application to the then Tahsildar, Dharmapuri Taluk, seeking for grant of individual patta in his name after necessary sub-divisions of his lands.

(vi) It appears that without notice to the petitioner and without conducting proper enquiry, the Tahsildar vide his proceedings in Moo.Mu.6.II/382/97/98 dated 19.05.1998, had sub divided the lands in S.No.450/2B and granted separate patta to Duraisamy.

(vii) According to the petitioner, in the year 2007, out of the 37 cents of lands in Sy.No.450/2B which he had purchased from Chinnammal, 12 cents was acquired by the Government for Salem-Krishnagiri National Highway Expansion Scheme, 10 cents was partitioned equally to his two sons by the petitioner, and the balance 25 cents of lands was in his physical possession till date. The petitioner contends that the Tahsildar without



considering the title documents of the property and without issuing notice to the petitioner, had issued the proceedings granting patta to Duraisamy to an extent of 0.90 cents of lands assigning Sy.No.450/2B2, though the said Duraisamy has right only over 0.75 cents of land, which is against the principles of natural justice.

(viii) The petitioner would further submit that without his knowledge, orders were issued for sub-dividing the lands in Sy.No.450/2B and Sy.No.449/2 of Palayam Village, Dharmapuri District. However, the petitioner has been periodically paying the taxes levied by the authorities for the property in Sy.Nos.450/2B and 449/2 in Palayam Village.

(ix) Meanwhile, based on an application received from one Arun Kumar to demarcate his lands and lay boundary stones, the petitioner was served with a notice dated 15.08.2024 by the Authorities asking him to attend an enquiry scheduled at 11.00 a.m., on 16.08.2024 by producing the title document relating to his property. However while the petitioner was on his way to VAO office, he received a phone call from Arun Kumar intimating him to come to his lands, where the petitioner saw three officials along with policemen. The petitioner would then came to know that this Arun Kumar is none other than the son of Duraisamy who had acquired the said lands by way of family arrangements. The officials are attempting to



lay the boundaries stones with reference to the erroneous patta that has been granted to the said Duraisamy, and when the petitioner objected to laying the fence stones, it was in vain.

(x) The petitioner had immediately lodged a complaint to the Superintendent of Police, Dharmapuri, but the same had not been considered. Therefore, the petitioner had filed W.P.No.21301 of 2024, challenging the order passed by the Tahsildar dated 19.05.1998, which has been passed without notice to the petitioner or verifying the title documents.

(xi) The petitioner also sent a representation to the respondents herein including the Revenue Divisional Officer, Dharmapuri, seeking to cancel the patta issued in favour of Arun Kumar in pursuant to the proceedings dated 19.05.1998. This was responded to and the Revenue Divisional Officer had conducted an enquiry calling upon both the petitioner and Arun Kumar, and after detailed enquiry, passed an order in Nee.Mu.4709/2024/Aa3 dated 30.10.2024, cancelling the sub-division made in Sy.No.450/2B and ordered status quo ante. This order has become final and no appeal was preferred by Arun Kumar.

(xii) Pending the proceedings of RDO dated 30.10.2024, the said Arun Kumar had executed a sale deed dated 06.09.2020 in respect of an



extent of 60 and quarters cents of land to one Tamilarasi.

(xiii) Thereafter, the petitioner decided to execute a settlement deed in favour of his son Karthik and when the settlement deed was presented for registration on 11.11.2024, the same was refused by the first respondent vide impugned order dated 12.11.2024 stating that the lands have already been dealt with and there was no land left for settlement. Challenging this order, the petitioner is before this Court.

2. Heard the learned counsels on either side.

3. It has been time and again reiterated by the Courts that the registering authorities cannot act as Court, and examine the title and right of the executants of a document which appears to be the situation in the instant case. The respondent has lost sight of the fact that after the sale by Chinnammal to Ramalingam and the petitioner herein, she had with her only 28 cents of land and her legal heirs had proceeded to execute a deed for the excess of land which they did not possess. The patta has also been obtained without notice to the petitioner who is also joint pattadar. Therefore, the registering authority namely the first respondent without considering the title to the property as well as going into the details of



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examining the evidence with reference to the alienation and transfers, shall proceed to register the settlement deed produced by the petitioner.

4. The Writ Petition is accordingly allowed and the first respondent is directed to register the settlement deed dated 11.11.2024 within a period of two (2) weeks from the date of its representation. No costs.

20.01.2025

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Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To:

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