



WEB COPY



WA No. 3392 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-12-2025

CORAM

THE HON'BLE MR JUSTICE R. SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE SHAMIM AHMED

W.A Nos. 3392 and 3393 OF 2025

W.A.No.3392 of 2025

R.SivakumarS/o. Late K.B.Raman, D.No.15/405,
Kethorai, Sogathorai Post, Nilgiris District.

..Appellant

Vs

1. The Inspector General Of Registration
No.100, Santhome High Road, Santhome,
Chennai - 600028.
2. The District Registrar
District Registrar's Office,
Udhagamandalam, Nilgiris District.
3. The Sub Registrar
Sub Registrar's Office, Coonoor,
Nilgiris District
4. R.Chandrasekaran
S/o. Late. K.B.Raman, Door No.15/4055,
Kethorai Hamlet Ketti Village,
Sogathorai Post, Nilgiris District
5. N.Mahalingam, S/o.Late. Nanjan, Door
No.18/107, Denalai Hamlet Ketti Village,
Sogathorai Post, Nilgiris District

..Respondents



WA No. 3392 of 2025

WA No. 3393 of 2025

M.Magadevan
S/o. T.M. Magalingam, Sullikudu, S.Kaikatti Post,
Kothagiri Taluk, Nilgiris District.

..Appellants

Vs

1. The Inspector General Of Registration
No.100, Santhome High Road, Santhome,
Chennai – 600028.
2. The District Registrar
District Registrar S Office,
Udhagamandalam, Nilgiris District.
3. The Sub Registrar
Sub Registrars Office, Coonoor,
Nilgiris District.
4. T.M.Sivabasavappan Alias T.M.Basavaiyyan
S/o. Late. Thuriya Maathaiyan, D.No. 3/423,
Sulligudu, S.Kaikatty Post, Kotagiri The
Nilgiris.
5. B.Mahalingam @ Mahalingaiyan
S/o. Basavaiya, Sulligudu, Araihattu,
S.Kaikatty Post, Kotagiri, The Nilgiris.

..Respondents

Prayer in W.A.No.3392 of 2025 : Writ Appeal under Clause XV of the Letters Patent to set aside the Order dt. 10.06.2025 passed in W.P. No. 16076 of 2025

Prayer in W.A.No.3393 of 2025 : Writ Appeal under Clause XV of the Letters Patent to set aside the Order dt. 10.06.2025 passed in W.P. No. 16061 of 2025.



WA No. 3392 of 2025

For Appellants :
For Respondents :

Mr.K.Balasubramanian
Ms.Akila Rajendran
Government Advocate for R1 to R3 in both
Writ Appeals

Common Judgment

(Judgment of the Court was delivered by R.Suresh Kumar J.)

Since the issue raised in both writ appeals is one and the same, these appeals were heard together and are disposed of by this common order.

2. The facts pertaining to W.A.No.3393 of 2025 is traversed herein. The appellant was the writ petitioner, who claims that the property (hereinafter referred to as 'subject property') ie., Old Survey No.573, New Survey Nos.1005/1, 1005/2 and 1005/13 admeasuring an extent of 0.60 acres situated at Nedugula Village was the ancestral property belongs to the grandfather of the petitioner one Thuraiya Maathaiyan. After his demise, his legal heirs ie, sons of the grandfather of the appellant have inherited the property and they had been enjoying the same. After the demise of the father of the present appellant, the appellant as well as his uncles who were also the joint owners and legal heirs of the original owner started enjoying the property jointly.

3. When that being so, one of the uncle of the appellant



WA No. 3392 of 2025

viz., Sivabasavappan seems to have sold the entire property in favour of one B. Mahalingaiyan @ B. Mahalingam, a third party, who is the 5th respondent herein by way of a sale deed registered as Document No. 444 of 2002 before the Sub Registrar, Kothagiri.

4. It is in this context the learned counsel for the appellant would contend that the said sale is on the basis of fraud and misrepresentation, and therefore the registering authority viz., Sub Registrar, Coonoor is liable to be prosecuted under the provisions of Sections 81 and 83 of the Tamil Nadu Registration Act, 1908.

5. With the aforesaid prayer when the appellant approached the writ Court, the writ petition was dismissed by the learned Writ Court by order dated 10.06.2025 stating that, insofar as the ownership is claimed jointly by more than one person of any property, out of which if one or two owners leaving the other, sold or meddled with the property or encumbered with the property by registering any deed of sale or encumbrance, that kind of registration cannot be cancelled abruptly. Such a roving enquiry cannot be undertaken by the registering authority and for obtaining such relief, the aggrieved party has to approach the Civil Court. In this context, the learned



WA No. 3392 of 2025

Writ Court has relied upon the judgment of the Division Bench in W.A.No.1242 of 2020 dated 16.04.2024. Ultimately through the impugned order, the learned Single Judge directed the writ petitioner to go before the competent Civil Court to seek for alternative remedy. Aggrieved over the same, the present writ appeals are filed.

6. After having heard the learned counsel for the appellants and the learned Government Advocate appearing for the official respondents, we are of the view that, as has been rightly held by the learned Writ Court through the impugned order, the remedy if at all sought for by the appellants to institute prosecution under Section 81 and 83 of the Tamil Nadu Registration Act 1908 against the registering authority is concerned, first of all there cannot be a prima facie case for launching such prosecution. In the case in hand, if any sale deed has been registered from the vendor to the purchaser and subsequently if one of the owners of the property or joint owners of the property has come forward to claim that he is also having a share in the property, which has been subjected to encumbrance, those issues can be sorted out only in the Civil Court, where the aggrieved party can file a suit for declaratory decree seeking to declare that he is lawful owner of the property by letting in evidence to substantiate his claim to be appreciated by the Civil Court. Instead, launching of prosecution under Section 81 and 83 of the Tamil



WA No. 3392 of 2025

Nadu Registration Act, 1908 is not the remedy and moreover, such a remedy cannot be granted by the Writ Court as has been rightly held by the learned Single Judge.

7. Therefore, we do not find any error in the said approach of the learned Judge in dismissing the writ petition. Accordingly, these writ appeals are liable to be dismissed. While dismissing the writ appeals, 30 (thirty) days time from the date of receipt of copy of this order is granted to the appellants to file appropriate suit before the civil court. It is open for them to obtain interim relief by filing interlocutory applications. Till such time, no further encumbrance can be made in the subject property by the private respondents. With the above observations, these writ appeals are dismissed. No costs.

(R.S.K.,J.) (S.S.A.,J.)
09-12-2025

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

KST



WA No. 3392 of 2025

To

1. The Inspector General Of Registration
No.100, Santhome High Road, Santhome,
Chennai – 600028.
2. The District RegistrarDistrict Registrar S
Office, Udhagamandalam, Nilgiris District.
3. The Sub RegistrarSub Registrars Office,
Coonoor, Nilgiris District.



WEB COPY



WA No. 3392 of 2025

**R.SURESH KUMAR J.
AND
SHAMIM AHMED J.**

KST

W.A Nos. 3392 & 3393 of 2025

09-12-2025

Page 8 of 8