



W.P.(MD) No.1495 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD) No.1495 of 2025
and
W.M.P.(MD).Nos.1091 and 1092 of 2025

A.Vimalarani

... Petitioner

Vs.

1. The Sub-Registrar,
Kovilpatti,
Thoothukudi District.

2. M.Chinnathai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the 1st respondent herein through letter in Na.Ka.No. 782/2024 dated 23.12.2024 in respect of the pending settlement deed No.P47/2024 on the file of the 1st respondent herein for the property situated at Survey No.236/B1, Kovilpatti Village & Taluk, Thoothukudi District and quash the same as illegal and consequently direct them to give sufficient time to the petitioner to get injunction order from the civil court.



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For Petitioner : Mr.M.Arikaran
For R1 : Mr.P.Subbaraj
Special Government Pleader

ORDER

This Writ Petition is filed for issuance of a writ of Certiorarified Mandamus to quash the impugned proceedings of the 1st Respondent dated 23.12.2024 bearing Na.Ka.No.782/2024 and consequently direct the 1st Respondent to give sufficient time to the petitioner to get injunction order from the Civil Court.

2. Mr.P.Subbaraj, learned Special Government Pleader takes notice on behalf of the 1st Respondent.

3. With consent of both parties, this Writ Petition is taken up for final disposal at the time of admission itself.



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4. The brief facts of the case, which are necessary for disposal of this Writ Petition, are as follows:-

The Petitioner's father had purchased the property measuring an extent of 16.48 cents comprised in Survey No.236/B1, Kovilpatti Village & Taluk, Thoothukudi District, in the name of the Petitioner's mother vide registered Sale Deed dated 21.03.1988 bearing Document No.775/1988. Since then the Petitioner's family members were in possession and enjoyment of the subject property. The 2nd Respondent who is one of the sisters of the Petitioner herein with a *malafide* intention had tried to grab the subject property. For which, she had created a fabricated document and obtained Patta in Patta No.948 and 949 on 19.09.2024. On the basis of the said Patta, the 2nd Respondent obtained her mother's signature and attempted to settle the property in her own favour. Therefore, the Petitioner has made an objection before the 1st Respondent on 03.10.2024. Thereafter, the Petitioner, her brother and her sisters have filed a Suit for permanent injunction in O.S.No.158 of 2024 before the learned District Munsif Court Kovilpatti and also filed an interlocutory application in I.A.No.2 of



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2024, which is pending. Meanwhile, on 22.10.2024, the 1st Respondent conducted an enquiry, wherein the Petitioner stated that the above Suit was pending. Without going into the facts of the case the 1st Respondent issued proceedings in Na.Ka.No.782/2024 dated 23.12.2024 stating that he need a Court order to stop the registration. Aggrieved by the same, the Petitioner is before this Court.

5. The learned Special Government Pleader appearing on behalf of the 1st Respondent on instructions would submit that the 1st Respondent registered the Settlement Deed executed by the mother of the Writ Petitioner in favour of the 2nd Respondent on 10.01.2025 in Document No.330/2025.

6. The learned counsel appearing on behalf of the Petitioner would submit that liberty may be granted to the Petitioner to challenge the Document registered by the 1st Respondent.

7. Heard the learned counsel on either side and perused the materials available on records.



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8. It is not in dispute that the writ petitioner, her sisters and her brother were filed a Civil suit in O.S.No.158 of 2024, on the file of the learned District Munsif Court, Kovilpatti for seeking the relief of permanent injunction against the writ petitioner's father, mother, brother and sister i.e., M.Chinnathai, the second respondent herein. It is seen from the records that admittedly, the Sub-Registrar, Kovilpatti is not shown as a party in the pending suit in O.S.NO.158 of 2024 or in the interlocutory application filed in I.A.No.2 of 2024 in O.S.No.158 of 2024 for seeking the relief of temporary injunction. The suit and the interlocutory application are still pending for adjudication. It is settled law that a regular suit is the appropriate remedy for settlement of the disputes relating to property rights between the private persons. At this juncture, it is relevant to cite the judgment of the Hon'ble Supreme Court in the case of **Roshina.T vs. Abdul Azees K.T. and Others**, vide Judgement dated 03.12.2018 in Civil Appeal No. 11759 of 2018 held as follows:-

“14. These questions, in our view, were pure questions of fact and could be answered one way or the other only by the Civil Court in a properly constituted civil suit and on the basis of the evidence adduced by the parties but not in a writ petition filed under Artcile 226 of the Constitution



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by the High Court.

15. It has been consistently held by this Court that a regular suit is the appropriate remedy for settlement of the disputes relating to property rights between the private persons. The remedy under Article 226 of the Constitution shall not be available except where violation of some statutory duty on the part of statutory authority is alleged. In such cases, the Court has jurisdiction to issue appropriate directions to the authority concerned. It is held that the High Court cannot allow its constitutional jurisdiction to be used for deciding disputes, for which remedies under the general law, civil or criminal are available. This Court has held that it is not intended to replace the ordinary remedies by way of a civil suit or application available to an aggrieved person. The jurisdiction under Article 226 of the Constitution being special and extraordinary, it should not be exercised casually or lightly on mere asking by the litigant. (See **Mohan Pande vs. Usha Rani**, 1992 (4) SCC 61 and **Dwarka Prasad Agrawal vs BD Agrawal**, (2003) 6 SCC 230)

16. In our view, the Writ Petition to claim such relief was not, therefore, legally permissible. It, therefore, deserved dismissal in limine on the ground of availability of an alternative remedy of filing a civil suit by respondent No.1 (writ petitioner) in the Civil Court.”

9. By applying the ratio laid down in the judgment cited supra, the remedy under Article 226 of the Constitution of India shall not be available, except where violation of some statutory duty on the part of the statutory authority is alleged.



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10. Considering the submission made on either side, the cause of action for filing the present Writ Petition became infructuous, since the settlement deed was registered by the 1st respondent on 10.01.2025. No direction could be granted as against the 1st respondent. There is no merit in this writ petition and the same is liable to be dismissed.

11. In the result, the writ petition is dismissed. However, the petitioner is at liberty to work out her remedy in the manner known to law. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
rgm

17.01.2024

To

The Sub-Registrar,
Kovilpatti,
Thoothukudi District.

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