



W.P.(MD).No.3479 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 26.02.2025

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD).No.3479 of 2025

S.Zameer Mohamed

.. Petitioner

Vs.

1.The District Registrar,
Dindigul District Registration Office,
Dindigul – 624 004.

2.The Sub-Registrar,
Kodaikanal,
111/15, Taluk Office Campus,
Kodaikanal,
Dindigul District.

3.Bajeela Parveen

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, to call for the records of the 2nd respondent pertaining to order dated 02.12.2024 in Na.Ka.No.349 of 2024 to quash the same and directing the 2nd respondent to entertain and register the sale deed dated 14.08.2024 executed by the petitioner in favour of third parties in the light of the dictum laid down by this Court in Subramani Vs Sub-Registrar, Office of the Sub-Registrar Rasipuram and another reported in (2024) 3 MLJ 588.



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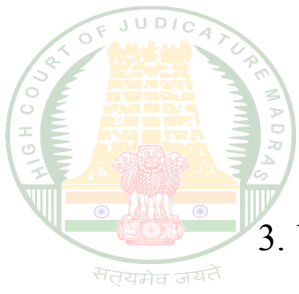
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For Petitioner : Mr.R.Chandra Sudan
For R-1 & R-2 : Mr.R.Suresh Kumar
Additional Government Pleader
For R-3 : Mrs.V.Jeyarani

ORDER

The present Writ Petition seeks to quash the proceedings of the second respondent in Na.Ka.No.349/2024 dated 02.12.2024 and for a Mandamus, directing him to entertain a sale deed that might be presented by the petitioner in favour of third parties with respect to Survey No.820/5 of Melapallanpuzham, Vadakavunji Village, Kodaikanal Taluk, Dindigul District.

2. The petitioner claims that this property along with other properties belonged to one Abdul Jabbar. The said Abdul Jabbar appointed his son, Jahir Hussain as his power agent. Jahir Hussain, in exercise of the power vested with him, alienated the entire extent of 1.70 Acres, for which, he had been appointed as a power agent, in favour of one Guruvammal on 10.12.2004. He pleads Guruvammal was in possession and enjoyment of the property till she alienated the same in his favour on 21.06.2017. The petitioner pleads that he has alienated several portions of the property purchased by him, save the land comprised in Survey No.820/5.



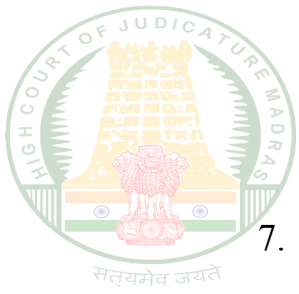
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3. With an intention to alienate this portion too, he attempted to present a sale deed before the second respondent. The second respondent refused to register any document on the basis of the objection that was placed before him by the third respondent.

4. The case of the third respondent is that Jahir Hussain had appointed one Ashik Hussain as his power agent on 06.04.2005. The power was for the property covered under Survey No.820/5 to an extent of 23 cents. The third respondent pleads that Ashik Hussain, in exercise of the power, had alienated the property in her favour on 21.04.2005. She claims she is the owner of the property and therefore, she gave an objection letter that the writ petitioner should not present any documents for alienation.

5. The second respondent, who had been presented with two conflicting cases, decided to take an easy way out and directed the parties to approach the jurisdictional Civil Court. He further ordered that he will not register any documents covering Survey No.820/5. Hence, the Writ Petition.

6. I heard Mr.R.Chandra Sudan for the writ petitioner, Mr.R.Suresh Kumar, learned Additional Government Pleader for the respondents 1 and 2 and Mrs.V.Jeyarani for the third respondent.



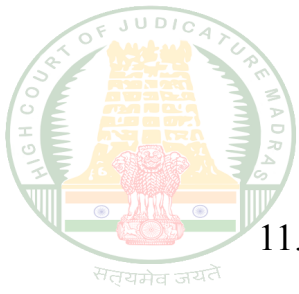
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7. Pleadings have been completed by the third respondent by filing a counter affidavit and documents.

8. Mr.R.Suresh Kumar has produced written instructions from the Sub Registrar in Na.Ka.No.349/2024 dated 07.02.2025. The respective counsels reiterated the contentions that they have pleaded in their respective affidavits.

9. It is the case of Mr.Chandra Sudan that Mr.Jahir Hussain had exhausted the entire power by alienating the property in favour of one Guruvammal on 10.12.2004. Therefore, his act of executing a power of attorney in favour of Ashik Hussain is a wasteful exercise. Mr.Chandra Sudan states that as the petitioner's predecessor in title, namely, Guruvammal had purchased the entire extent before the purchase had been made by the third respondent, the third respondent has no right, title or interest over the property. Hence, the order of the second respondent deserves to be quashed.

10. Mrs.V.Jeyarani, relying upon Rule 162 of the Registration Rules, pleads that as Clause VII operates, the Registrar lawfully refused to accept the sale deed presented by the writ petitioner.



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11. Mr.R.Suresh Kumar states that the Sub Registrar does not want to register two documents for the same survey number and therefore, he had passed the impugned order.

12. I have carefully considered the submissions of both sides. I have gone through the records.

13. Whether Guruvammal became the owner of the property on 10.12.2004 or whether the third respondent became the owner of the property on 21.04.2005 are matters beyond the scope of jurisdiction of the second respondent. The second respondent, in terms of Rule 55 of the Registration Rules, does not have the power to decide matters on title.

14. Rule 162-VII, that was relied upon by Mrs.Jeyarani, relates to situation covered under Sections 32, 33, 40 and 43 of the Registration Act. Section 32 applies when a representative of the owner presents the documents and is unable to substantiate before the Registrar that he is a representative. Section 33 also applies, in a situation, where a power of attorney is unable to prove his power, the authorisation, to present the document. Section 40 of the Registration Act covers “WILLS” and Section 43 deals with deposit of such testaments. None of the Sections apply to the facts of the present case, because



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it is not a WILL that is sought to be presented by the writ petitioner, but a document of sale. The writ petitioner had presented the document by himself and not through the offices of an agent or a representative. Therefore, Sections 32 and 33 are also inapplicable. When Rule 162 is not applicable to the facts of the case, that leaves out only the issue of double entry, which I have answered earlier, holding that Rule 55 does not enable the Registrar to deal with matters relating to title.

15. In my view, the Registrar had rightly directed the parties to approach the Civil Court to get their title declared. However, he erred in not receiving the documents presented by the petitioner. The fear expressed by Mrs.Jeyarani that by registering a document, the writ petitioner might try to plead that he has title over the property, is misplaced. This is because by virtue of a mere registration of a document, a person, who does not have title otherwise, cannot claim title over the property.

16. In the light of the above discussion, the portion of the impugned order dated 02.12.2024, holding that the second respondent will not receive any documents with respect to Survey No.820/5 presented by the petitioner, alone is quashed. The other portions directing the parties to approach the Civil Court are upheld. The writ petitioner will be entitled to a Mandamus to direct the second



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respondent to receive and register any document that will be presented by him

with respect to Survey No.820/5, Melapallanpuzham, Vadakavunji Village,
Kodaikanal Taluk, Dindigul District.

17. Needless to add that both the parties are at liberty to approach the
jurisdictional Civil Court to get their title declared.

18. The Writ Petition stands allowed in the above terms. There shall be no
order as to costs.

26.02.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

1.The District Registrar,
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2.The Sub-Registrar,
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V.LAKSHMINARAYANAN,J.

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