



W.P.(MD)No.4686 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.03.2025

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.(MD)No.4686 of 2025

1.G.Sivamuthu
2.G.Uma
3.G.Anandhi

... Petitioners

vs.

1.The District Registrar,
Virudhunagar, Virudhunagar District.

2.The Sub Registrar,
Sub Registrar Office,
Sivakasi, Virudhunagar District.

3.C.Muthumari

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the second respondent to revoke the recording of the objection in PP/28/2019, dated 12.12.2019 on the file of the second respondent by considering the petitioner's representation, dated 07.01.2025.



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For Petitioners :Mr.M.Solaisamy
For R1 and R2 :Mr.R.Suresh Kumar
Additional Government Pleader
For R3 :Mr.M.Muthuvel
for Mr.Ramsundar Vijayaraj

ORDER

The petitioners seek for a Writ of Mandamus to direct the second respondent to revoke the recording of the objection in PP/28/2019, dated 12.12.2019 on the file of the second respondent by considering the petitioner's representation, dated 07.01.2025.

2.The petitioners state that the properties situated in S.Nos.1545/1, 1545/2A, 1537/1B, 1537/2, 1538/4B, 1545/2A, 1544 and 1546 at Eanjar Village and the properties situated in S.Nos.38/1B, 37/15 and 35/3 of Anaiyur Village, Sivakasi Taluk, Virudhunagar District belong to one Ramanujammal. The said Ramanujammal is the mother of the Writ Petitioners and the third respondent. The third respondent filed a suit for partition and separate possession in O.S.No.27 of 2014 on the file of the Principal District Court, Virudhunagar at Srivilliputhur. During the pendency of the suit, a compromise was entered into between the parties.



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In terms of the compromise, Ramanujammal had executed a settlement deed in favour of the third respondent and in turn, the third respondent had executed a relinquishment deed with respect to Ramanujammal properties.

3. Thereafter, the third respondent gave a petition to the second respondent stating that no document should be registered with respect to the property over which she has a claim. The petitioners herein, who claim that they have come about the properties by virtue of the settlement arrived at between them pursuant to the compromise decree, attempted to register a mortgage evidencing a loan, that they have taken from a Nationalised Bank. When the said document was presented for registration, the second respondent refused to register the same on account of the objection, that has been given by the third respondent. Hence, the Writ Petition for the aforesaid relief.

4. When the matter came up for admission, Mr.R.Suresh Kumar, learned Additional Government Pleader took notice for the respondents 1 and 2 and private notice was ordered to the third respondent.



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5.I heard Mr.M.Solaisamy for the petitioner, Mr.R.Suresh Kumar for respondents 1 and 2 and Mr.M.Muthuvel, representing Mr.Ramsundar Vijayaraj for the third respondent.

6.Mr.M.Solaisamy, pleads that the Writ Petitioners have got the properties by way of a settlement deed after the compromise, that have been registered in O.S.No.27 of 2014 on the file of the Principal District Court, Virudhunagar at Srivilliputhur.

7.Mr.M.Muthuvel, contends that those documents do not bind the third respondent, as in order to prevent the Writ Petitioners from frittering away the family property, the third respondent had lodged her objection with the second respondent. He points out that civil litigation is pending between the parties and therefore, no document should be entertained at the instance of the Writ Petitioners. He also pleads that the alleged memorandum of compromise relied upon by the Writ Petitioners is not binding on the third respondent, as the third respondent has withdrawn from the compromise.



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

9.For the mere fact that a suit is pending, there cannot be a direction to the second respondent not to register any document. If a suit is pending, in which, a property is directly and substantially a subject matter, then Section 52 of Transfer of Property Act, 1882, operates. If Section 52 of the Act operates and any alienation is made by the Writ Petitioners, who are the defendants in the suit, it will not bind the third respondent, in case she succeeds in the suit. Section 52 of Transfer of Property Act, 1882, does not bar alienation of any property, but only makes the alienation subject to the result of the decree.

10.Even assuming that the alleged memorandum of compromise, which the petitioners assert to be true and which the third respondent denies, is not binding on the third respondent, is accepted, for the mere fact that the Writ Petitioners are executing a Memorandum of Deposit of Title Deeds (MODT) in favour of a Nationalised Bank will not take away any right of the third respondent. The mortgagee/Nationalised Bank will



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not be entitled to enforce the mortgage, as against the share of the third respondent, if any.

11.The Registration Act does not empower the second respondent to grant orders in the nature of injunction preventing registration of a document by a co-sharer. The Registrar does not have a power of civil Court nor he is empowered to receive objection and restrain the persons from presenting a document and refuse to register the document.

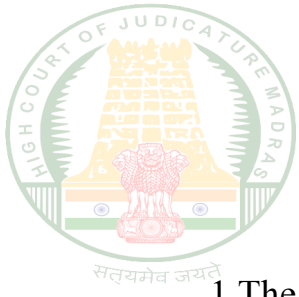
12.In the light of the above discussions, the Writ Petition is ordered. The second respondent shall receive the Memorandum of Deposit of Title Deeds (MODT) executed by the petitioners in favour of the Nationalised Bank. It is made clear that in the event of success of the third respondent in the civil proceedings, the Memorandum of Deposit of Title Deeds (MODT) shall not bind her share. No costs.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
cmr

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To

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Sub Registrar Office,
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V. LAKSHMINARAYANAN, J.

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