



W.P.(MD)No.15324 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.02.2025

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.(MD) No.15324 of 2024

P.Ganesan

... Petitioner

vs.

1.The District Registrar,
Theni,
Theni District.

2.The Sub Registrar,
Office of Sub Registrar,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned check slip of the 2nd respondent dated 3.7.2024 and impugned order dated 3.7.2024 of 2nd respondent refusing to register the sale deed of the petitioner dated 27.06.2024 quash the same and consequently direct the respondents herein to forthwith register the sale deed dated 27.06.2024.



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For Petitioner :Mr.G.Thalaimuthurasu
For Respondents :Mr.N.Ramesh Arumugam
Government Advocate

ORDER

The writ petition has been filed for issuance of Writ of Certiorarified Mandamus to call for the records of the impugned check slip issued by the second respondent dated 03.07.2024 and the impugned order dated 03.07.2024 of the second respondent refusing to register the sale deed of the petitioner dated 27.06.2024, to quash the same and to direct the respondents to forthwith register the sale deed dated 27.06.2024.

2. The petitioner is the son of one V.Paradesi. It is claimed that Paradesi ancestrally was entitled to the following extents of the properties in Oonjampatti Village, Theni District.

<i>Sl.No.</i>	<i>Survey No.</i>	<i>Extent Acre-Cent</i>
<i>1</i>	<i>219</i>	<i>2.35</i>
<i>2</i>	<i>217</i>	<i>1.15</i>
<i>3</i>	<i>219/3</i>	<i>0.44</i>
<i>4</i>	<i>219/6</i>	<i>0.2.</i>
<i>5</i>	<i>219/4E</i>	<i>0.44</i>
<i>6</i>	<i>219/4A3</i>	<i>0.20</i>



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7	219/4A1	1.77
8	219/4A2	0.47
9	219/4B1	0.10
10	219/4B3	0.10
11	217/1	1.90
12	219/4	6.04
13	218/2	1.49
14	219/4C	0.51
	Total	17.24

3. One Danushkodi along with others had created false and fabricated documents, as if Paradesi and others, had sold the property in their favour. Aggrieved by the same, Paradesi and other family members filed a suit in O.S.No.106 of 2004 on the file of the District Munsif Court at Periyakulam. The suit came to be decreed on 07.12.2004. The petitioner has also registered the judgment and decree in the said suit. As Paradesi had passed away, the petitioner pleads that he succeeded to the property. He executed a sale deed in favour of one Gnanadhesikha Pillai and 7 others. When the document was presented for registration, it was rejected through the impugned order. Hence, this writ petition.



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4. I heard Mr.G.Thalaimuthurasu, learned counsel for the petitioner and Mr.N.Ramesh, Arumugam, learned Government Advocate for the respondents.

5. Mr.G.Thalaimutharasu pleads that even during the life time of the petitioner's father, certain persons have projected the documents claiming to be the owners thereof. Aggrieved by the same, his father had presented a suit for declaration of title and for injunction. The suit had been decreed, which shows that the petitioner's father, Paradesi, became the owner of the property. On his death, the petitioner succeeded to the estate and is therefore entitled by right to alienate the same in favour of third parties or any other person he chooses. He states that the impugned order is untenable and has to be set aside.

6. *Per contra*, Mr.N.Ramesh Arumugam points out that the Registrar is not questioning the title of Paradesi to the property. He points out that though the decree is of the year 2004, thereafter, Paradesi along with his brother Karuppiyah had alienated the property in favour of one Balasubramanian. The said Balasubramanian had given a power of



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attorney in favour of one Thangamani and subsequently, Thangamani had parcelled out and sold various extents of the property to third parties. He states that the document that has been presented for registration by the writ petitioner is not the unsold extent of the property, but covers the entire schedule given in the decree. Therefore, he states that the impugned order does not require any interference.

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

8. The narration of the aforesaid facts shows that the petitioner's father had secured a decree in the year 2004. Subsequently, he is alleged to have executed a sale deed along with his brother in favour of a third party. In such circumstances, the argument of Mr.Thalaimuthurasu that by virtue of the decree dated 07.12.2004, the petitioner's father had become the absolute owner and hence, the petitioner is also entitled to execute documents cannot hold water. It is possible that the entire extent had not been alienated by Karuppiah and Paradesi. Therefore, while presenting the document, it is the duty of the writ petitioner to exclude



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the lands that have been alienated by his father and present the document for sale.

9. At this stage, Mr.Thalaimuthurasu pleads that the petitioner's father had never alienated the property and therefore, the documents that have been shown in the encumbrance are all fraudulent. Whether the document is fraudulent or otherwise cannot be dealt with by a Sub Registrar. It has to be dealt with by the jurisdictional civil Court.

10. The option is for the petitioner either to accept the sale deeds that are found in the encumbrance certificate, exclude those extents and present a document for the remaining extent or to challenge the alienations made by way of a suit. The documents have been brought to the notice of the petitioner by way of a proceeding of the Sub Registrar on 03.07.2024. Therefore, there is always time to the petitioner to present a suit for title and other consequential reliefs. Suffice to state that these are not matters, which can be gone into a writ petition.



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11. With the above liberty granted to the writ petitioner, the Writ
Petition fails and is accordingly, dismissed. However, there shall be no
order as to costs.

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

06.02.2025

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To

1.The District Registrar,
Theni,
Theni District.

2.The Sub Registrar,
Office of Sub Registrar,
Theni District.



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V. LAKSHMINARAYANAN, J.

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