



W.P.(MD).No.19974 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2025

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD).No.19974 of 2022

and

W.M.P.(MD).No.14534 of 2022

1.Devi

2.Abishek

3.Guru Gayathri Sujitha

.. Petitioners

Vs.

1.The District Registrar (Administration),
Tiruchirapalli District.

2.Malayappan (Deceased)

3.Valli

4.Maheswari

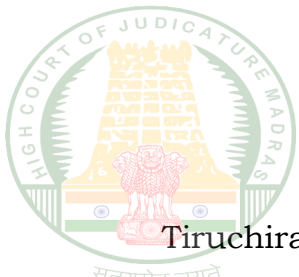
5.M.Selvakumar

6.Radhika

.. Respondents

(R-3 to R-6 are impleaded vide Court order dated 07.02.2025 in W.M.P.(MD).No.25487 of 2024 in W.P.(MD).No.19974 of 2022)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the 1st respondent in Na.Ka.No.9459/A4/2020 dated 22.02.2021, quashing the same and consequently directing the 1st respondent to cancel his direction to the Sub Registrar, Srirangam,



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Tiruchirapalli, not to register any sale deed based upon the registered document bearing No.114/2020.

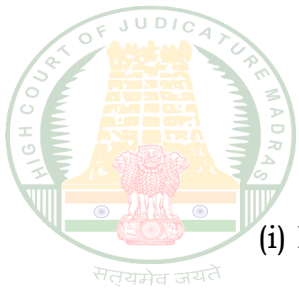
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For Petitioners : No appearance
For R-1 : Mr.N.Ramesh Arumugam
Government Advocate
For R-3 to R-6 : Mr.T.M.Ponniah

ORDER

This Writ Petition challenges the order of the first respondent in Na.Ka.No.9459/A4/2020 dated 22.02.2021 and consequently, to direct the first respondent to cancel his direction to the Sub Registrar, Srirangam, Tiruchirapalli, not to register any sale deed based upon the registered document bearing No.114/2020.

2. The petitioners claim that they are the children of one Geethanjali, W/o. Late Svakkinraj @ Sakthi Raja. They plead that their mother Geethanjali, passed away and the petitioners succeeded to her estate. The present dispute relates to the property situated at Old Ward No.2, Survey No. 2162 of Vellithirumutham Village, Srirangam Taluk, Tiruchirappalli District. The petitioners plead that this property belonged to one M.R.S.Durairaj, who passed away on 27.01.1989. Mr.Durairaj had purchased the property on 27.05.1964 and on his death, he left behind the following persons as his legal heirs:



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- (i) D.Elizabeth Mary – wife,
- (ii) D.Milkyus – son,
- (iii) D.Svakkinraj – son (father of the writ petitioners),
- (iv) D.Joseph Disousa – son,
- (v) D.Mary Britto – daughter and
- (vi) D.Roja Rani – daughter.

The petitioners plead that their grandmother Elizabeth Mary passed away on 16.10.2017. They add that the second son of Durairaj, who is their father, passed away on 11.12.2018. They plead that along with their mother, they are the legal heirs of the said Svakkinraj. The petitioners plead that the other legal heirs of Durairaj had executed a document of release on 22.01.2020 in favour of their mother, Geethanjali.

3. One Malayappan submitted a petition to the first respondent stating that the relinquishment deed dated 22.01.2020 is a fraudulent document and the same ought to be cancelled. The said Malayappan had invoked the provisions of Section 68(2) of the Registration Act. According to Malayappan, he has title to the property, which he had acquired by adverse possession, as he was in possession of the same for over 35 years.

4. According to the petitioners, their grandfather Durairaj had initiated a Rent Control Proceedings against Malayappan in RCOP.No.308 of 1983 for eviction. As Durairaj had died and his legal representatives did not take any



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steps to bring themselves on record, the Rent Control Proceedings was dismissed for default on 05.04.1989. Later on, the legal heirs of Durairaj had filed a suit for eviction against Malayappan in O.S.No.1283 of 1989 and this suit too came to be dismissed for default on 25.08.2000. The petitioners pleaded that an application was filed to restore the suit together with an application for condonation of delay in I.A.No.648 of 2000. This petition was dismissed on merits. A revision preferred therefrom in C.R.P.(NPD).No.775 of 2003 also met the same fate on 04.08.2003. The petitioners plead that subsequently, a fresh suit was filed by the legal heirs of Durairaj in O.S.No. 1338 of 2003 on the file of the I Additional District Munsif at Tiruchirappalli. This suit was dismissed on 17.09.2012 on the ground that the cause of action in O.S.No.1338 of 2003 and the cause of action in O.S.No.1283 of 1989 are one and the same.

5. On the conclusion of these two proceedings, Malayappan presented a petition before the Tahsildar for mutation of the revenue records and to include his name in the same. The Tahsildar allowed the said prayer on 26.11.2019. The petitioners plead that, it is on the basis of the Tahsildar's joint patta, Malayappan had presented a petition under Section 68(2) of the Registration Act.

6. The first respondent took the petition on file and passed an order holding that since the name of Malayappan is found in the revenue records



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and as the names of the predecessors of the petitioners are not found therein, the release deed in Document No.114/2020 is a tainted one. He directed that the parties have to approach the jurisdictional Civil Court in order to work out their rights. Challenging the same, the present Writ Petition.

7. Originally, the Writ Petition came to be allowed by this Court on 16.08.2024. Thereafter, an application was filed by the respondents 3 to 6 pleading that on the date on which the Writ Petition had been allowed, the second respondent, Malayappan was no more. They pleaded that the order is against a dead person and therefore, the order passed by this Court allowing the Writ Petition is a nullity. Consequent to the petition filed to recall in W.M.P.(MD).No.25487 of 2024, the order passed by this Court on 16.08.2024 was set aside and the matter was restored to the file of this Court.

8. When the matter was taken up for hearing today, there was no representation for the petitioners. I heard Mr.N.Ramesh Arumugam for the first respondent and Mr.T.M.Ponniah for the respondents 3 to 6.

9. The facts reveal serious disputes as regards the nature of possession of the deceased Malayappan. Whether Malayappan had prescribed title by adverse possession, whereby, the title of Durairaj was



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extinguished and prescribed in favour of Malayappan, are all matters, which require evidence. Complicated issues of law and fact cannot be dealt with under Section 68(2) of the Registration Act. The power under Section 68(2) is supervisory with respect to the administration of the subordinates under the District Registrar. Section 68(2) does not confer any quasi-judicial power on the first respondent to pass orders, as if he were a Civil Court. This position of law has been settled by the Supreme Court in **Satya Pal Anand Vs. State of Madhya Pradesh and others, (2016) 10 SCC 767**.

10. Since the position of law has been settled by the Supreme Court, I merely have to apply the said verdict to the facts of this case. Accordingly, the Writ Petition stands allowed. The impugned order passed by the first respondent dated 22.02.2021 is set aside. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

11. It is open to the petitioners as well as the respondents 3 to 6 to initiate such proceedings, as they are entitled to, before the jurisdictional Civil Court either for declaration and recovery of possession or for a declaration that they have prescribed title by adverse possession.

21.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To
The District Registrar (Administration),
Tiruchirapalli District.



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V.LAKSHMINARAYANAN,J.

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