



W.P.(MD)No.20699 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No. 20699 of 2025

and

W.M.P(MD)No.16025 of 2025

1. S.Thavaseelan
2. Nithya

...Petitioners

Vs.

1. The Deputy Inspector General of Registration,
Tirunelveli.
2. The District Registrar (Admin),
Tenkasi.
3. The Sub Registrar,
Puliyangudi,
Tenkasi.
4. K.Aravind

...Respondents

PRAYER : Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorari calling for the records relating to the impugned orders passed by the 2nd respondent in No.7230/Aa2/2021 dated 27.12.2021 and the consequential order of the 1st respondent in Na.Ka.No.469/Thapi/U/2022 dated 06.01.2025 and pass such further or other orders as this Honble court may deem fit and proper in the circumstances of this case and thus render justice



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W.P.(MD)No.20699 of 2025

For Petitioner : M/s.H.Arumugam
For Respondents : Mr.D.Sasikumar,
Additional Government Pleader
For RR1 to 3

ORDER

The present Writ Petition has been filed for the issuance of a *Writ of Certiorari* calling for the records relating to the impugned orders passed by the 2nd respondent in No.7230/Aa2/2021 dated 27.12.2021 and the consequential order of the 1st respondent in Na.Ka.No.469/Thapi/U/2022 dated 06.01.2025.

2. Through the impugned order, the respondents have held that the settlement deed executed by the petitioners as fraudulent document as per the circular No.18223/C1/2013-3 dated 18.11.2013. The brief facts are that the house property in Natham S.No.495/11, Thalaivankottai Village, Sivagiri Taluk measuring 7.41 cents is the ancestral property. There was an un-registered partition in the year 1980 between the petitioner's father and his brothers, wherein, the subject property was allotted to the share of the petitioner's father namely Shanmuga Iyya Konar and his brother namely Senthur Pandia Konar. The western portion of house was allotted to the share of the petitioner's father and the Eastern portion was allotted

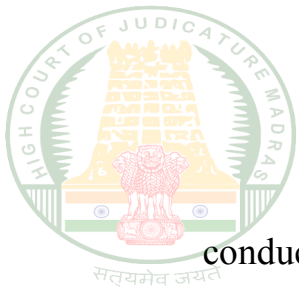


W.P.(MD)No.20699 of 2025

to Senthur Pandia Konar. Hence, during their life time of the petitioner's

father and his brother, they were in separate possession and enjoyment of their rights and patta No.1328 was also issued jointly in the name of the petitioner's family. Thereafter, the petitioners had executed a settlement deed of the western portion in favour of his daughter vide settlement deed dated 11.06.2015. Thereafter, separate patta was also issued in Patta No. 1388 and the petitioner's daughter is in possession of the same. While being so, the 4th respondent who is the grandson of the Senthur Pandia Konar gave a representation to the second respondent stating that the settlement deed executed in favour of the petitioner's daughter is fraudulent as there was no registered partition at all.

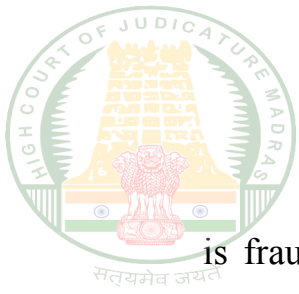
3. The second respondent had conducted an enquiry in the impugned proceedings dated 27.12.2021 and held that unregistered partition deed cannot be accepted in law, hence, the settlement executed is fraudulent one. The petitioners preferred an appeal before the first respondent on 17.01.2022 and the same was rejected through the impugned proceedings dated 06.01.2025, by citing the decision of the Hon'ble Division Bench in W.P(MD).No.4161 of 2024 etc., batch dated 02.08.2024, wherein, this Court had held that the respondents cannot



W.P.(MD)No.20699 of 2025

conduct enquiry with respect to the validity of the documents. Both the decision of the respondents 1 and 2 are against the principles of law laid down by the Division Bench of this court. Hence the present writ petition.

4. After hearing the submissions, this Court has given its anxious consideration. Admittedly, the brothers namely Shanmuga Iyya Konar and Senthur Pandia Konar are having shares in the property. The co-sharer are entitled to sell the undivided share, the person whoever purchase the undivided share is entitle to file a partition suit. When this preposition of law is settled and there is no question of forged and fraudulent document. If the fourth respondent is aggrieved, he ought to have preferred civil suit with a prayer of partition. As on date he has not preferred any such suit. Moreover, the brothers have executed unregistered partition utmost the same can be considered as oral partition. In such circumstances, the document cannot be declared as fraudulent document. The document may be validated, if the proper stamp duty is collected, when such being the case, the impugned order declaring the same as fraudulent is totally against the settled preposition of law. It is for the reason, the Hon'ble Divison Bench has declared Section 77A as ultra vires. The respondents cannot sit as civil court and declare such document



W.P.(MD)No.20699 of 2025

is fraudulent. Therefore, the impugned order is passed violation of law and against the settled preposition of law. Therefore, the order impugned in this writ petition is liable to be quashed. Accordingly, the order impugned dated 06.01.2025 is hereby quashed. However, the fourth respondent is at liberty to approach the appropriate civil court if he is so advised.

5. With the above said observations, this writ petition is allowed.

No costs. Consequently, connected miscellaneous petition is closed.

08.08.2025

NCC : Yes / No
Internet : Yes

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W.P.(MD)No.20699 of 2025

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2. The District Registrar (Admin), Tenkasi,
3. The Sub Registrar Puliayangudi,
Tenkasi.



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W.P.(MD)No.20699 of 2025

S.SRIMATHY, J.
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ORDER MADE IN
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