
(2010) 08 MAD CK 0401

In the Madras High Court

Case No : Writ Petition No. 13008 of 2010 and M.P. No. 1 of 2010

M. Dhanesh Mootha

APPELLANT

Vs

The Sub Registrar

RESPONDENT

Date of Decision : 30-08-2010

Acts Referred:

Citation : (2010) 08 MAD CK 0401

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : M. Santhanaraman, for the Appellant; Lita Srinivasan, Government Advocate, for the Respondent

Judgement

D. Hariparanthaman, J.—The petitioner's father owned 1.69 acres of property comprised in Survey Nos. 25 (part) and 36 (part) of Porur Village, having purchased the same under three different sale deeds dated 21.10.1963, 28.10.1963 and 28.10.1963 in document Nos. 2774/1963, 2836/1963 and 2837/1963 respectively, on the file of the Sub Registrar, Saidapet, measuring 50 cents, 50 cents and 69 cents respectively. Out of the said 1.69 acres, 69 cents and 56 cents were sold by his father during his lifetime and the remaining extent of 44 cents was retained by him till his death on 05.12.2007. In those circumstances, the petitioner's mother executed a release deed dated 24.05.2010 releasing her half undivided share in the said 44 cents in his favour and the said document was presented to the respondent herein for registration and the same was registered as document No. 139 of 2010. However, the respondent declined to return the document after registration by referring a letter dated 22.03.2010 written by the Executive Officer, Porur Town Panchayat that no registration in Survey No. 36/2A of Porur Village should be done in view of pendency of writ petition in W.P. No. 17278 of 2009 before this Court.

2. The petitioner states that in view of the aforesaid letter, the respondent refused to return the document. It is stated that the writ petition in W.P. No. 17278 of 2009 referred to by the Executive Officer of Porur Town Panchayat was

filed by himself, against the District Collector, Tiruvallur and the Executive Officer, Porur Town Panchayat, restraining them from disturbing his peaceful possession and enjoyment of 44 cents comprised in S. No. 36/2A of Porur Village. It is further stated that interim stay was also granted as prayed for and the same is still in force. The said writ petition is still pending before this Court. The pendency of the writ petition cannot be cited for refusing to return the document. The petitioner sent a representation dated 02.06.2010 to the respondent to return the release deed dated 24.05.2010 that was registered in the office of the respondent. However, the respondent did not choose to return the document.

3. Hence, the petitioner has filed the present writ petition seeking for a direction to the respondent to return the release deed dated 24.05.2010 registered as document No. 139 of 2010 on the file of the respondent.

4. Notice of motion was ordered on 23.06.2010.

5. Heard Mr. M. Santhanaraman, learned Counsel for the petitioner and Mrs. Lita Srinivasan, learned Government Advocate for the respondent.

6. The learned Counsel for the petitioner submits that the Executive Officer, Porur Town Panchayat has no power and jurisdiction to issue the letter directing the respondent herein, not to return the release deed. In this regard, the learned Counsel relies on a decision of this Court Ramaswamy and Nallamanickenpatti Vs. The Inspector General of Registrations, The District Registrar and The Sub Registrar, .

7. On the other hand, the learned Government Advocate submits that since the writ petition in W.P. No. 17278 of 2009 is pending, the Enquiry Officer directed the respondent not to return the release deed.

8. I have considered the submissions made on either side and perused the materials available on record.

9. As rightly contended by the learned Counsel for the petitioner, the Executive Officer of Porur Town Panchayat has no power and jurisdiction to direct the respondent not to return the release deed. Pendency of the other writ petition that was filed by the petitioner, cannot be cited for withholding the release deed. There is no direction from this Court to withhold the release deed that was registered with the respondent. The judgment relied on by the learned Counsel for the petitioner squarely applies to the facts of this case.

10. Accordingly, the writ petition is disposed of with a direction to the respondent to return the release deed dated 24.05.2010 registered as document No. 139/2010 to the petitioner, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.