
(2018) 01 MAD CK 0006
In the Madras High Court
Case No : 31807 of 2017

S.Selvaraj

APPELLANT

Vs

The Sub Registrar & Anr.

RESPONDENT

Date of Decision : 18-01-2018

Acts Referred:

Citation : (2018) 01 MAD CK 0006

Hon'ble Judges : K. Ravichandrabaabu

Bench : Single Bench

Advocate : I.Abrar Md. Abdullah, D.Suriyanarayanan, V.P.K.Gowtham

Final Decision : Allowed

Judgement

1. The petitioner seeks for a mandamus to direct the first respondent to register the sale deed dated 27.11.2017 in respect of the property comprised in New Survey No.106/2A2 situated at Jodigaianiyar Village, Velagoundampatti Sub Registration District, Namakkal District.
2. Heard Mr.I.Abrar Md. Abdullah, learned counsel for the petitioner, Mr.D.Suriyanarayanan, learned Additional Government Pleader appearing for the first respondent and Mr.V.P.K.Gowtham, learned counsel appearing for the second respondent.
3. The property at Survey No.106/2A2 originally belonged to one K.Senthilkumar, husband of the second respondent herein. He died on 27.07.2016, leaving behind his mother by name Arukkani and his wife viz., the second respondent as his legal heirs. This is evident from the Legal Heirship certificate issued by the Tashildar, Tiruchengode dated 27.09.2016. Thus, after the death of the said K.Senthilkumar, the second respondent and the said Arukkani, being the legal heirs of the deceased are entitled to half share each in the said property. Now, the second respondent sold her half share to the petitioner herein by way of the sale deed dated 27.11.2017. When the said document was presented before the first respondent for registration, the same was not entertained only on the

reason that the parent document was not produced in original. To that effect, a check slip was issued by the first respondent on 27.11.2017.

4. It is submitted by the learned counsel for the petitioner as well as the second respondent that a certified copy of the parent document in Document No.2781/2015 is very much available and the same can be taken into consideration by the first respondent, since the original is not available with the second respondent or her mother-inlaw after the death of the said Senthilkumar. Therefore, it is contended that the first respondent can register the document viz., the sale deed dated 27.11.2017, after perusing the copy of the parent document in Document No.2781/2015.

5. Though this matter was adjourned twice for the learned Government Pleader to get instruction from the first respondent, the learned Additional Government Pleader is not in a position to get any instruction from the first respondent. However today also, he seeks further time to get instruction.

6. On the other hand, the learned counsel for the petitioner submitted that as the second respondent is urgently leaving the Country on 23.01.2018, the sale deed has to be registered before such date and therefore, the prayer sought for in this writ petition may be considered immediately.

7. I have given my careful consideration to the facts and circumstances of the case and the reasons stated in the check slip dated 27.11.2017 for not registering the document. I have also perused the Legal Heirship Certificate issued by the competent authority, as discussed supra.

8. As the first respondent has chosen to return the sale deed only on the reason that the original parent document was not produced, I am of the view that the first respondent can very well consider the certified copy of the said document viz., Document No.2781/2015, also by obtaining necessary Affidavit or Declaration from the vendor with regard to the non availability of the original parent document and the reasons for not producing the same. If such certified copy is produced along with Declaration or affidavit, as stated supra, I do not think that there will be any impediment or difficulty for the first respondent in considering the certified copy of the parent document for registering the document, taking into consideration of the peculiar facts and circumstances of the present case. Accordingly, the writ petition is allowed and the first respondent is directed to register the sale deed dated 27.11.2017 after perusing the certified copy of the parent Document No.2781/2015 to be produced by the petitioner before the first respondent. As stated supra, the petitioner as well as the second respondent shall file necessary Affidavit/Declaration before the first respondent with regard to the non availability of the parent Document No.2781/2015. The first respondent shall register the document, as stated supra within a period of seven days from the date of receipt of a copy of this order.