

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.5653 and 5654 of 2015 and M.P.No.1 and 1 of 2015

Sugirthammal ...Petitioner in both the petitions
Vs

1. The District Collector,
Collectorate Building,
Singaravelar Maligai,
Rajaji Road, Chennai - 600 001

2. The Commissioner,
Corporation of Chennai
Chennai - 600 003

3. The Branch manager,
State Bank of India,
Rayapuram Branch,
Chennai - 600 0013

4. M.Vijayakumar ...Respondents in W.P.No.5653 of 2015

1. The Inspector General of Registration,
100, Santhome High Road,
Chennai - 28

2.The District Registrar,
o/o District Registrar,
SRO Office, Rayapuram,
Rajaji Salai, Chennai - 600 001

3. M.Vijayakumar ..Respondents in W.P.No.5654 of 2015

Prayer In W.P.No.5653 of 2015 : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 and 2 to take action against the respondents 3 and 4 for creating a void sale deed dated 04.05.2001 (Doc.No.1380/2001 Sub registrar Office, Rayapuram) in respect of the property bearing new no.59, old no.22, Muthiah mudali Street, Old Washermenpet, Chennai - 21 which was the subject matter of the land

acquisition proceedings in G,O.Ms.No.3065 Health and Family Planning dated 22.12.1971 published in the Tamilnadu Government Gazette No.1, Part II - Sec.2, dated 05.01.1972 by considering the petitioners representation dated 16.02.2015

Prayer In W.P.No.5654 of 2015 : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 and 2 to conduct an enquiry to cancel the registration of the void Sale deed dated 04.05.2001 registered as Doc.No.1380 of 2001 on the file of the Sub Registrar Office, Rayapuram by considering the petitioner's representation dated 16.02.2015.

For Petitioner :Mr.N.Manokaran

For Respondents :Mr.V.Jayaprakash Narayanan
Special Government Pleader for R1

Mr.V.Selvakumar for R2

No appearance for R3 and R4

O R D E R

Heard Mr.N.Manokaran, learned counsel appearing for the petitioner and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader appearing for the first respondent and Mr.V.Selvakumar, learned counsel appearing for 2nd respondent. With the consent of either side the Writ Petitions themselves are taken up for final disposal at the admission stage.

2.The Petitioner filed these two writ petitions (i) for issuance of a Writ of Mandamus directing the respondents 1 and 2 to take action against the respondents 3 and 4 for creating a void sale deed dated 04.05.2001 (Doc.No.1380/2001 Sub registrar Office, Rayapuram) in respect of the property bearing new no.59, old no.22, Muthiah mudali Street, Old Washermenpet, Chennai - 21 which was the subject matter of the land acquisition proceedings in G,O.Ms.No.3065 Health and Family Planning dated 22.12.1971 published in the Tamilnadu Government Gazette No.1, Part II - Sec.2, dated 05.01.1972 by considering the petitioners representation dated 16.02.2015 and (ii) for issuance of a Writ of Mandamus directing the respondents 1 and 2 to conduct an enquiry to cancel the registration of the void Sale deed dated 04.05.2001 registered as Doc.No.1380 of 2001 on the file of the Sub Registrar Office, Rayapuram by considering the petitioner's representation dated 16.02.2015.

2. The petitioner would claim that she is the tenant in respect of the property way back from the year 1968 under one Shenbagammal. The dispute is now between the petitioner and one Vijayakumar/ 4th and 3rd respondent respectively. According to the petitioner, the property in question is the subject matter of land acquisition proceedings for the purpose of establishing creche by the Corporation and an award was passed bearing no.5 of 1972 dated 19.04.1972.

3. The petitioner would state that the 4th respondent, who is the utter stranger has created certain fraudulent transactions and mortgaged the property with the 3rd respondent and obtained loan for a sum of Rs.8,00,000/- (Rupees eight lakhs only), defaulted in payment of loan, resulting action by the SARFAESI Act by the 3rd respondent. Further it is stated that the 4th respondent has filed the eviction petition under Section 10(2)(1) of the Tamilnadu Buildings (Lease and Rent Control) Act, 1960 in RCOP No.1986 of 2010 on the file of the 13th Small Causes Court, Chennai to evict the petitioner from the premises and the suit petition is also pending.

4. With all these above facts, now the petitioner is before this Court stating that the respondents 3 and 4 should be restrained from creating transaction in respect of the said property.

5. In the light of the fact that the land acquisition proceedings, which culminated into an award in the year 1972 and the other relief sought for is to conduct an enquiry and cancel the registration of the sale deed dated 04.05.2001, in my view, as on date, the petitioner has not established her title over the property, whereas the petitioner claims that she is the tenant under Shenbagammal. The other contention of the petitioner is that the 4th respondent has no title over the property, also cannot be adjudicated in these Writ Petitions and the relief sought for by the petitioner is misconceived and the same are dismissed. However, this will not prevent the petitioner from approaching the competent court for appropriate relief. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssd

To

1. The District Collector,
Collectorate Building,
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Rajaji Road, Chennai - 600 001

2. The Commissioner,
Corporation of Chennai
Chennai - 600 003

3. The Branch manager,
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4. The Inspector General of Registration,
100, Santhome High Road,
Chennai - 28

5. The District Registrar,
o/o District Registrar,
SRO Office, Rayapuram,
Rajaji Salai, Chennai - 600 001.

2 cc to Mr.N.Manokaran ,Advocate, SR.No.11808 & 11809

1 cc to Government Pleader, Sr.No11840

W.P.Nos.5653 and 5654 of 2015 and

M.P.No.1 and 1 of 2015

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