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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:29.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE **S.MANIKUMAR**
and
THE HONOURABLE MR.JUSTICE **G.CHOCKALINGAM**

W.A. (MD) .Nos.597 and 598 of 2015 &
M.P. (MD) .No. 1 of 2015

Y.Solomon Devaraj .. Appellant in both the appeals

Vs.

1.S.P.N.Sathyamoorthy

2.The District Registrar,
Thiruchirapalli District,
Thiruchirapalli.

3.The Sub Registrar,
K.Sathanoor,
Tiruchirappalli District.

4.The Revenue Divisional Officer,
Thiruchirapalli District,
Thiruchirapalli.

5.The Commissioner of Police,
Trichy City Police,
Tiruchirappalli District,
Tiruchirappalli.

6.The Inspector of Police,
Prohibition of Land Grabbing Special Wing,
Cantonment, Thiruchirapalli. ..Respondents in both the appeals

Prayer: Appeals filed under Clause 15 of Letters Patent against the order made in M.P.(MD).Nos.2 and 2 of 2014 in W.P.(MD).Nos.17259 and 17260 of 2014, dated 23.12.2014, on the file of this Court.

MP(MD)No.2 and 2 of 2014 in WP(MD)Nos.17259 and 17260 of 2014 :

Petitions praying that in the circumstances stated therein and in the affidavits filed therewith the High Court will be pleased to
Empower the petitioner herein as a 6th respondent in the Writ
Petition in WP(MD)Nos.17259 and 17260 of 2014.

**Prayer in WP(MD). 17259/ 2014 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, under Article 226 of the Constitution of India directing the respondents 1 and 2 to register the cancellation deeds deed dated 11.12.2009 bearing pending document Nos. 93 of 2009, 94 of 2009 and 95 of 2009 pending on the file of the second respondent within the time limit that may be fixed by this Honourable Court and thus render justice.

Prayer in WP(MD). 17260/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, under Article 226 of the Constitution of India directing the respondents 1 and 2 to register the cancellation deeds deed dated 11.12.2009 bearing pending document NOs. 98 of 2009, 99 of 2009 pending on the file of the second respondent within the time limit that may be fixed by this Honourable Court and thus render justice.

For appellant : Mr.Vallinayagam
Senior Counsel for Mr.S.C.Herold Singh
Mr.Balachandran, for R1

COMMON JUDGMENT

(Judgment of the Court was made by **S.MANIKUMAR ,J.)**

Being aggrieved by the observations made in M.P.(MD) Nos.2 and of 2014 in W.P.(MD).Nos.17259 and 17260 of 2014, dated 23.12.2014, filed for impleading the appellant in the Writ Petitions, which have been subsequently dismissed and contending *inter alia* that the observations if allowed to stand would affect the right of the appellant, over the subject matter of the properties, W.A.(MD). Nos.597 and 598 of 2015 have been filed, and accordingly, submissions have been made by Mr.Vallinayagam, learned Senior Counsel for the appellant.

2. Having regard to the above, we directed the learned Senior Counsel to serve the entire case papers, on the learned counsel appearing for the respondents. It is also brought to the notice of this Court that the Writ Petition has been dismissed. But, in our order dated 03.07.2015, we have erroneously recorded as dismissed as withdrawn. Error requires correction.

3. Observations recorded in paragraph number 33 of the common order dated 23.12.2014, in M.P.(MD).Nos.2 and 2 of 2014 in W.P.(MD). Nos.17259 and 17260 of 2014 is reproduced hereunder:-

"33. As far as the present cases are concerned, it is to be borne in mind that the petitioner/impleading petitioner in M.P.(MD).Nos.2 and 2 of 2014 in W.P.(MD).Nos.17259 and 17260 is not aware about the execution of the Cancellation Deeds by Govindarajan, Ethirajammal, Soundaramammal, Senthilkumar, Meenavathi and Kumarasamy, had not challenged



the said Cancellation Deeds dated 11.12.2009 (pending document Nos.93/09 to 95/09) till date. That apart, when the Petitioner is only a 'Power Agent' of Govindarajan, Ethirajammam and Soundaramammam and in reality when the principals themselves have no right over the subject matter or properties and all the more when they had admitted the same by executing the cancellation deeds in pending document Nos.93 to 95 of 2009 and also signed as a witness in the sale deed in the pending document Nos.98 and 99 of 2009, then he has no *locus standi* to get himself impleaded as sixth respondent in W.P.(MD).Nos.17259 and 17260 of 2014. Also that he is not a necessary or a proper party to the proceedings in both the writ petitions in W.P.(MD).Nos.17259 and 17260 of 2014 on the file of this Court, as opined by the Court. Certainly, if he is not added as a Sixth Respondent in W.P.(MD).Nos.17259 and 17260 of 2014 then his right is not to be affected because of the reason he has not enforceable legal right in the Eye of Law, in the considered opinion of this Court. Moreover, the Petitioner and one Surayabegum were prevented by the order of this Court dated 02.01.2014 in M.P.(MD).Nos.1 to 3 of 2014, in W.P.(MD).No.14491 of 2014 in entering or occupying the subject matter of the property and as such the order is still in force."

4. When the matter came up for hearing, Mr.R.Balachandran, learned counsel appearing for the first respondent, fairly submitted that he has no objection for the pending litigations, between the parties to be disposed of, without being influenced by the observations made at paragraph 33 recorded supra. Submissions of the learned counsel for the first respondent is placed on record.

5. Though W.P.(MD).Nos.17259 and 17260 of 2014, itself have been dismissed on 18.03.2015, as the observation made in paragraph 33 of the order in M.P.(MD) Nos.2 and 2 of 2014 in W.P.(MD).Nos.17259 and 17260 of 2014 are likely to affect the right of the appellant over the subject property, in the pending proceedings, writ appeals were entertained. Recording the submissions of the learned counsel for the first respondent, writ appeals are disposed of and it is made clear that the pending litigation between the parties, be disposed of uninfluenced by the observation at para 33 of the order made in M.P.(MD).Nos.2 and 2 of 2014 in W.P.(MD).Nos.17259 and 17260 of 2014, dated 23.12.2014. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (C.O.)

/True Copy/



To

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- 1.The District Registrar,
Thiruchirapalli District,
Thiruchirapalli.
- 2.The Sub Registrar,
K.Sathanoor,
Tiruchirappalli District.
- 3.The Revenue Divisional Officer,
Thiruchirapalli District,
Thiruchirapalli.
- 4.The Commissioner of Police,
Trichy City Police,
Tiruchirappalli District,
Tiruchirappalli.
- 5.The Inspector of Police,
Prohibition of Land Grabbing Special Wing,
Cantonment, Thiruchirapalli.

+1cc to Mr.S.C.Herold Singh, Advocate Sr.No.42676
+1cc to Mr.R.Balachandran, Advocate Sr.No.43299
+1cc to The Special Government Pleader SR.No.43196

akm/18.08.2015 /4p-9c/

Order made in
W.A. (MD) .Nos.597 and 598 of 2015
29.07.2015