



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.08.2015**

CORAM:

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P. (MD) No.834 of 2014

and

M.P. (MD) .No.1 of 2014

Palanivel

... Petitioner

Vs.

1. The District Collector,
Trichy District,
Trichy.

2. The Special Tahsildar,
Backward Class Welfare Department,
O/o. District Collector,
Trichy.

3. The Tahsildar,
Thottiyam Taluk,
Trichy District.

4. The Sub Registrar,
O/o. Sub Registrar,
Kattuputhur,
Trichy District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the fourth respondent to cancel the document in Doc.No.294/1999 dated 17.03.1999 executed in favour of the first respondent in respect of Survey No.272/5 to an extent of 1 acre 27 cents in Eloorpatti Village, Kattuputhur Sub Registrar Office, Trichy District and further direct the first respondent to change mutation in respect of Survey No.272/5 to an extent of 1 acre 27 cents in Eloorpatti Village, Kattuputhur Sub Registrar Office, Trichy District in the name of the petitioner.

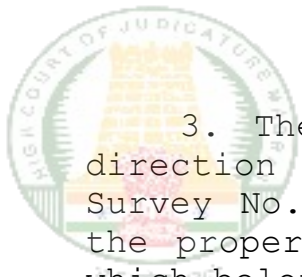
For Petitioner : Mr.K.Govindarajan

For Respondents : Mr.M.Rajarajan
Government Advocate

**ORDER**

This Writ Petition has been filed for a Writ of Mandamus to direct the fourth respondent to cancel the Document No.294/1999 dated 17.03.1999 executed in favour of the first respondent in respect of Survey No.272/5 to an extent of 1 acre 27 cents in Eloorpatti Village, Kattuputhur Sub Registrar Office, Trichy District and further direct the first respondent to change mutation in respect of Survey No.272/5 to an extent of 1 acre 27 cents Eloorpatti Village, Kattuputhur Sub Registrar Office, Trichy District in the name of the petitioner.

2. The case of the petitioner is that the property situated in Survey No.272/5 to an extent of 1.27 cents in Eloorpatti Village, Kattuputhur within the jurisdiction of Kattuputhur Sub Registrar Office, Trichy, belongs to the petitioner's father. The petitioner's father name is Vaiyapuri and his grand father name is Arumugam Samban. His brother's name is Singaram. His father also died in the year 1994, leaving behind the petitioner as well as his mother Veerammal and his brother Singaram. The said Singaram died leaving behind his wife Palaniammal. The petitioner's father Vaiyapuri during her life time purchased the above said property in Survey No.272/5 to an extent of 1.27 cents through registered sale deed dated 22.07.1981 from one Govindammal and Periyasamy for a valuable consideration of Rs.1,785/-. The vendor of the petitioner's father viz., Govindammal purchased the property through registered sale deed dated 02.03.1942 and she has been in enjoyment of the property and after purchase of the same, the petitioner's father has been in enjoyment of the property and after the petitioner's father, the petitioner and his brother's wife are in enjoyment of the same. All of a sudden, during 3rd month of 2012, he came to know the Government is claiming right over the property. Hence, he started to verify the records and from the records, he found that the property was standing in the name of the second respondent. Therefore, he immediately applied for the encumbrance certificate and from that, he came to know that the property was sold by one Duraisamy on 17.03.1999 in favour of the first respondent. The said Duraisamy does not have any title or possession in respect of the property and he died in the year 1995, whereas the alleged Document dated 17.03.1999 said to have been executed by Duraisamy in favour of the first respondent is concocted. Hence, the petitioner has made a representation to the respondents 2 and 3 to cancel the Document No.294 of 1999 dated 17.03.1999 and the same was not considered. Therefore, the petitioner has come forward with this writ petition for Mandamus directing the fourth respondent to cancel the Document No.294 of 1999 dated 17.03.1999 executed in favour of the first respondent in respect of Survey No.272/5 to an extent of 1



3. The learned counsel for the petitioner submitted that a direction may be given to the respondent to change mutation in Survey No.272/5, since the said Duraisamy, who has no right over the property had sold the property in favour of first respondent which belongs to the petitioner.

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4. But, this Court is of the opinion, such a positive direction cannot be given, because the issue involved in this matter is to be decided only by the Civil Court, since there is a disputed question of facts. Though the learned counsel for the petitioner submitted that at least a direction may be given to the respondents 1 and 2 to consider his representations dated 20.03.2012 and 25.09.2015, I am of the view that the transaction took place in the year 1999, now almost 17 years have lapsed and the petitioner has not given any proper explanation in the affidavit as to why he was keeping quiet all along. Hence, a direction for considering the representation cannot be given in this case. Hence, the writ petition is liable to be dismissed. Accordingly, the Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

akv

To

1. The District Collector, Trichy District,
Trichy.
2. The Special Tahsildar, Backward Class Welfare Department,
O/o. District Collector, Trichy.
3. The Tahsildar, Thottiyam Taluk,
Trichy District.
4. The Sub Registrar, O/o. Sub Registrar,
Kattuputhur, Trichy District.

+1CC to Spl.Government Pleader Sr.No.49543

GJM/AN/MP/29.9.15-3P-6C

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