

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.10987 of 2016
& W.M.P.No.9573 of 2016

Murugan

.. Petitioner

Vs.

1. The Inspector General of Registration,
Santhome, Chennai-600 004.
2. The District Registrar,
Villupuram District, Villupuram.
3. The Sub-Registrar,
Ananthapuram Registrar Office,
Villupuram District.
4. Natarajan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the second respondent to cancel the settlement deed, dated 28.08.2015, registered as Document No.1020 of 2015 on the file of the third respondent, based on the enquiry proceedings, dated 18.01.2016 forthwith.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.S.Navaneethan,
Addl.G.P. for RR-1 to 3

ORDER

The petitioner has prayed for issuance of a Writ of Mandamus to direct the second respondent to cancel the settlement deed, dated 28.08.2015, registered as Document No.1020 of 2015 on the file of the third respondent, based on the enquiry proceedings, dated 18.01.2016 forthwith.

2. In the affidavit filed in support of the Writ Petition, it is averred by the petitioner that he is a permanent resident in Ramanujapuram, Kolathur, Villupuram Taluk and District; his father Samikannu was owning property comprised in Survey No.62/1

to an extent of 0.53.5 ares and Survey No.62/2 to an extent of 0.50.5 ares, totally measuring 1.04.0 ares of land, situated in Poondi Village, Vikravandi Taluk, Ananthapuram, Sub-Registrar Office, Villupuram District. His father died in 1986 and his mother Unnamalai also died on 14.05.2002, without bequeathing any Will to inherit the above mentioned property. As per the Legal Heirship Certificate issued by the competent authority after the death of the petitioner's father, Unnamalai (died) (wife of Samikannu), Vasantha (daughter) (w/o Natarajan), Mohan (son), Rani (daughter) (W/o Dhandapani), Susila (daughter) (w/o Dhandapani) and Murugan (son) are the legal representatives of the deceased Samikannu. Therefore, all the legal heirs are the co-shares of the joint family property of their deceased father Samikannu (son of Sadaya Gounder).

3. While so, the petitioner's elder sister, namely Vasantha (wife of Natarajan, who is the fourth respondent herein), became mentally retarded person due to chronic illness and a Certificate was also issued by the competent authority to that effect. Taking advantage of her mental illness, her husband (fourth respondent), without the knowledge of other legal heirs, executed settlement deed as if the said Vasantha executed her share over the undivided property in favour of the fourth respondent (Natarajan, son of Ramasamy Gounder) on 28.08.2015, vide Document No.1020 of 2015 on the file of the third respondent. It is the stand of the petitioner that the very execution of the settlement is invalid and non-est in the eye of law, as the executant is mentally retarded person, with no mental capacity to execute the document and it is a clear conspiracy and creation of records to grab the land for unlawful means and thereby, the fourth respondent is trying to sell the property and hence, according to the petitioner, it is deemed that the fourth respondent committed offence, for which, a criminal case has to be registered. Accordingly, the petitioner lodged a complaint on 08.10.2015 with the Police to register the FIR against the accused person and his henchmen. Since no action is taken by the Police, the petitioner filed CrI.M.P.No.41 of 2015 before the Court of Judicial Magistrate (Anti-land grabbing cases), Villupuram, under Section 156(3) Cr.P.C., and the learned Magistrate, by order dated 20.11.2015, directed the Police to file a report on enquiring the said complaint, on or before 05.01.2016.

4. It is the further grievance of the petitioner that the fourth respondent is not even taking care of his wife Vasantha, even though she is bed-ridden for about 20 years with mental instability and committing all sorts of fraudulent transactions. Hence, in view of the Circular issued by the first respondent on 03.01.2011 in Circular No.67, the petitioner represented to the second respondent on 08.10.2015 to enquire into the matter for cancellation of the said fraudulent settlement deed. In response

to the same, the second respondent sent a communication to the petitioner calling upon him, the fourth respondent and his wife Vasantha to appear before him for enquiry on 08.02.2016 in the office of the second respondent; accordingly, the petitioner appeared and explained the details; but the fourth respondent did not appear for the enquiry, and hence, the case is being adjourned repeatedly. Since no action is being followed, the petitioner has filed this Writ Petition for the above relief.

5. Heard both sides. In view of the order that is going to be passed in this Writ Petition, it is not necessary to give notice to the fourth respondent.

6. Considering the above facts and circumstances of the case and without going into the merits or otherwise of the case, this Court directs the second respondent to consider the said representation of the petitioner, dated 08.10.2015, conduct enquiry and give an opportunity of personal hearing to the petitioner and other legal heirs in the petitioner's family and any other necessary parties, including the fourth respondent and thereafter pass appropriate orders and dispose of the said representation, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the second respondent to decide the same.

7. With the above observations and directions, the Writ Petition is disposed of. No costs. W.M.P. is closed.
cs

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

Copy to

1. The Inspector General of Registration,
Santhome, Chennai-600 004.
2. The District Registrar,
Villupuram District, Villupuram.

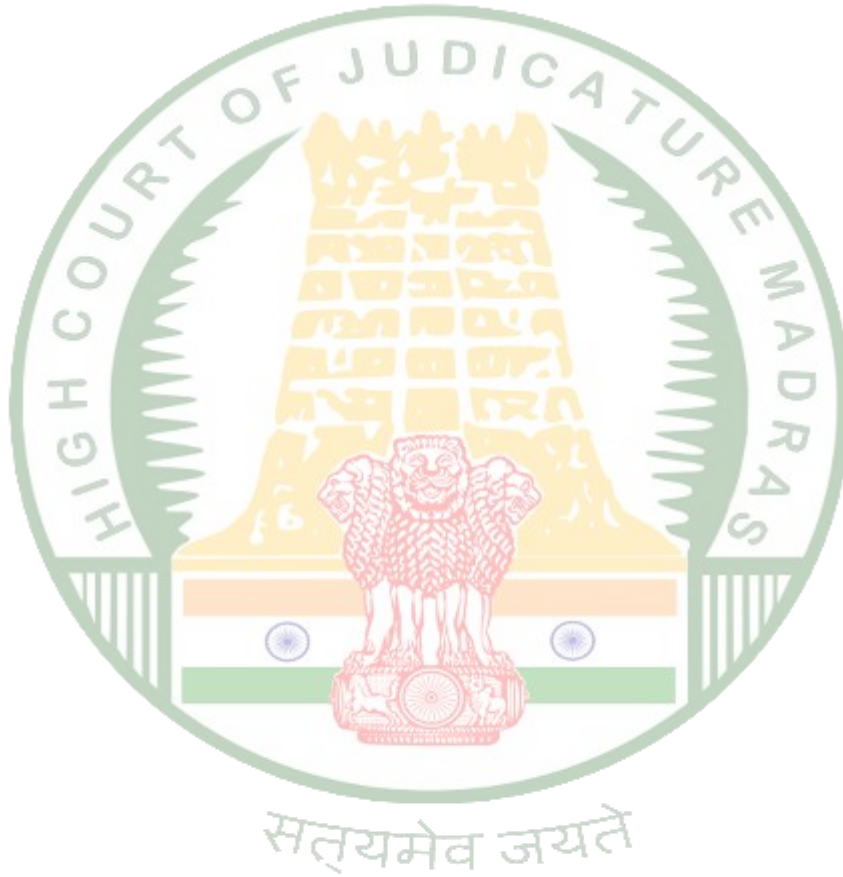
3. The Sub-Registrar,
Ananthapuram Registrar Office,
Villupuram District.

+ 1 cc to Mr.C.Prabakaran, Advocate SR 19029

+ 1 cc to Govt.Pleader SR 19007

cnr(co)
prk20/4

W.P.No.10987 of 2016



WEB COPY