

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 24.03.2016

Pronounced on : 12.04.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.34897 of 2015

and

M.P.No.1 of 2015

M.Babu ... Petitioner

Vs.

State rep. by

1.The Inspector General (Registration),
Government of Tamil Nadu,
120, Santhome High Road, Chennai-600 028.

2.The District Registrar,
District Registrar Office (South),
No.9, Jeans Road,
Saidapet, Chennai-600 015.

3.The Sub-Registrar (South),
No.124, 1st Floor, Arcot Road,
Virugambakkam, Chennai-600 092. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in Letter No.18339/C1/2012, dated 24.04.2012 and order Na.Ka.No.1210/2015, dated 10.09.2015 issued by the 3rd respondent and to quash the same and to direct the 3rd respondent to register the sale deed presented by the petitioner in respect of his property situated in Survey No.166/2 in Valasarwakkam, Chennai, on 03.09.2015.

For Petitioner : Mrs.B.Jayanthi

For respondents : Mr.P.Sanjay Gandhi, AGP (Writ)
(For R1 to R3)

ORDER

This writ petition has been filed by the petitioner, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 1st respondent in Letter No.18339/C1/2012, dated 24.04.2012 and order Na.Ka.No.1210/2015, dated 10.09.2015 passed by the 3rd respondent and to quash the same and further, to direct the 3rd respondent to register the sale deed presented by the petitioner in respect of his property situated in Survey No.166/2 in Valasarwakkam, Chennai, on 03.09.2015.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner, inter alia, as follows:-

The petitioner is the owner of the property at Plot No.36 situated in 3rd street, Bethania Nagar, Valasarwakkam, Chennai, which was conveyed to him by his grandfather M.K.Raju through a settlement deed. The petitioner has been paying all the statutory dues and there is no encumbrance on the property. On 03.09.2015 the petitioner presented a sale deed in respect of the said property for registration in favour of the proposed buyer; but, the sale deed was refused to be registered by the respondents. Hence, the petitioner has come forward with the present writ petition.

3.But, the 1st respondent has filed a counter, stating that the Sale Deed dated 07.09.2015 executed by the petitioner conveying Plot No.36 measuring 1225 sq.ft of land together with the building constructed thereon, comprised in Survey No.166/2 in Valasarwakkam Village, to and in favour of one J.Kamal, was presented for registration by the petitioner on 07.09.2015. On examination of the previous transactions, it was found that title is claimed through an unregistered Sale Deed. Hence, as the petitioner has not derived legal title to the property, the 3rd respondent has declined to accept the Sale Deed of the petitioner, narrating the reasons therefor, under letter No.1210/2015, dated 10.09.2015. It is further stated in the counter that one K.Narayanan and the legal heirs of one Late.Govindasamy have sold Plot No.36 measuring 1225 sq.ft., of land together with a house constructed thereon, to and in favour of one M.K.Raju (grandfather of the petitioner) under a Sale Deed dated 5.12.2003 which was registered as No.6508/2003. Though it was clearly recorded in the said Sale Deed that the vendor K.Narayanan has purchased the land from Govindasamy under an unregistered Sale Deed dated 04.01.1992 and the said K.Narayanan has not derived any legal title over the property, the said document has been registered, as the system of ascertaining the title of the vendor by examining the previous documents was not in vogue at that time. In E.P.No.87/1993, on

behalf of the legal heirs of Late.Govindasamy, the Sub-Court, Poonamallee had sold the subject property to the Bethania Residents Welfare Society. The legal heirs of Late.Govindasamy have no right to convey a portion of the property, which has already been sold. Hence, the subsequent purchaser M.K.Raju (grandfather of the petitioner) also had not derived any legal right from his vendors as they have no legal title. A Deed of Settlement dated 24.02.2012 executed by the said M.K.Raju gifting the said property in favour of his grandson (the petitioner herein), was registered as No.1006/2012 and the said document has also been registered without verification of title. Bethania Residents Welfare Society is the legal owner of the subject property as per the Sale Deed executed by the Sub-Judge, Poonamallee vide Doc.No.5596/2000. No evidence has been shown by the petitioner to prove the said Society has conveyed the property to Govindasamy. When the said Govindasamy himself was not the owner of the property, he could not have sold the property, that too under an unregistered Sale Deed. When the first sale is made through an unregistered Sale Deed, which is illegal, the subsequent transactions based on the illegal deed, are also illegal. Thus, the 1st respondent sought for dismissal of the writ petition.

4. When the matter was taken up for consideration, the learned counsel appearing for the petitioner made a detailed submission, to the effect that the valid title was passed on to the grandfather of the petitioner, who executed a settlement deed in favour of the petitioner.

5. But, the learned Additional Government Pleader submitted that absolutely no document has been produced by the petitioner to show that the title was passed on to the grandfather of the petitioner. In fact, on examination of the previous transactions, it was found that the petitioner is claiming right through an unregistered Sale Deed. Since the petitioner has not produced any document to show that the title was passed on to the grandfather of the petitioner, who had executed the Settlement Deed in favour of the petitioner, the respondents have rightly refused to register the document. Thus, the learned Additional Government Pleader sought for dismissal of the writ petition.

6. Heard both sides and perused the materials available on record.

7. When the subject sale deed was presented by the petitioner for register, the 3rd respondent has, on verification, found that no title was passed on to the petitioner's grandfather. Since there was no document produced by the petitioner to show that the title was passed on in favour the petitioner's grandfather, who had executed settlement deed in favour of the petitioner,

in respect of the subject property, the respondents have correctly refused to register the sale deed. Therefore, the petitioner has to seek is remedy only by filing suit before the civil Court for adjudication of title by producing the proper evidence. In the event of obtaining a decree from the civil Court declaring him as the owner of the subject property, the petitioner can approach the respondents for registration of the sale deed. The present writ petition cannot be entertained and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ssv

To

- 1.The Inspector General (Registration),
Government of Tamil Nadu,
120, Santhome High Road, Chennai-600 028.
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+3 ccs to M/s.B.Jayanthi Advocate sr.22871,18932

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