

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.2221 of 2016

Nagammal

... Petitioner

Vs.

The District Registrar
Chennai South,
Saidapet, Chennai-15.

2.Mayandi

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to conduct enquiry based on the petitioner's complaint dated 26.08.2015.

For Petitioner : Mr.R.Jayaprakash

For Respondent : Mr.V.Jayaprakash Narayanan,
Spl.GP. for R1.
Mr.K.Meenakshi Sundaram for R2.

ORDER

With the consent of both sides, the Writ Petition is taken up for final disposal.

2.The petitioner has come forward with the present Writ Petition seeking for issuance of mandamus directing the first respondent to conduct enquiry based on the petitioner's complaint dated 26.08.2015.

3.The petitioner is an illiterate person. The petitioner's father is the absolute owner of the property at S.No.64/2A2 at Melakottaiyur Village, Chengalpet Taluk, Kancheepuram District, measuring an extent of 99cents in document No.1320 of 1948 dated 12.08.1948 and S.No.152/3B at Melakottaiyur Village, Chengalpet Taluk, Kancheepuram District to an extent of 75cents in document No.2560 of 1961 dated 26.12.1961. (totally 99cents + 75 cents = 1acre 74 cents)

4.The petitioner's father died intestate in the year 1967 and her mother died in the year 1986. The petitioner had two brothers. All the three children are entitled for 58cents each. The petitioner's brother by name Pichandi died in the year 1992, leaving behind his legal heirs. At this juncture, the second respondent who is another brother of petitioner canvassed the petitioner that if a partition deed is registered by partitioning the property by metes and bounds, then there will not be any problem in enjoying the property by the respective parties.

5.The petitioner agreed for the same and went to the office of the Sub Registrar, Guduvancherry along with the second respondent and registered a deed in Doc.No.5782 of 2012 dated 02.04.2012. During the month of July 2015, the petitioner asked the second respondent to hand over her share, at that time, the legal heirs of her deceased brother Pichandi informed the petitioner that the document executed on 02.04.2012 is a settlement deed in favour of the second respondent and not partition deed. Thereafter, the petitioner applied for Encumbrance certificate, then the petitioner came to know that the second respondent had played fraud and registered a settlement deed without her consent and knowledge. The petitioner submitted her representation on 26.08.2015 to the District Registrar, Kancheepuram, in turn the same was forwarded to the first respondent on 05.10.2015. But till date, the first respondent has not taken any action, hence, the petitioner filed the present writ petition.

6.When the matter is taken up for consideration, the learned counsel appearing for the second respondent submitted that already a civil suit is pending before the trial Court, therefore, a direction cannot be given at this stage. The learned counsel for the petitioner submits that the petitioner is not a party in the said suit.

7.Heard the submissions of learned counsel appearing for the petitioner and the learned Special Government Pleader who accepts notice on behalf of the first respondent.

8.Considering the facts and circumstances, this Court directs the first respondent to conduct enquiry on the representation of the petitioner dated 26.08.2015 and pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order, after affording opportunity of personal hearing to the petitioner as well as to the second respondent and other necessary parties, if any. It is for the first respondent to decide the issue purely on merits. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner.

9.The writ petition is disposed of accordingly. No costs.

tsh

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The District Registrar,
Chennai South,
Saidapet, Chennai-15.

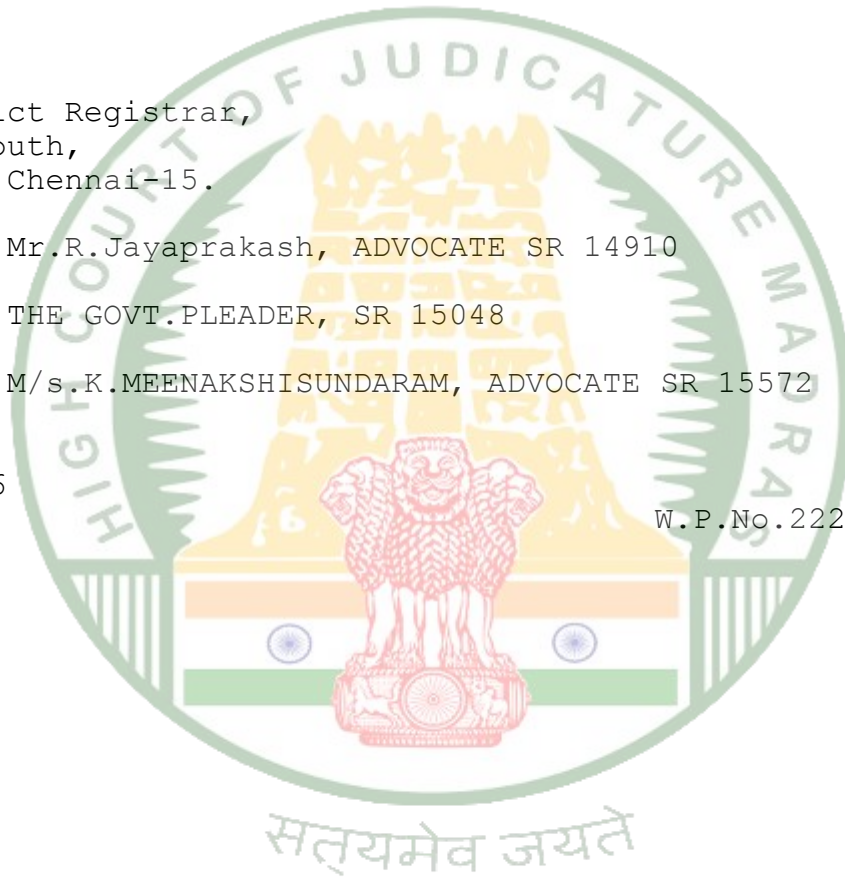
+ 1 CC TO Mr.R.Jayaprakash, ADVOCATE SR 14910

+ 1 CC TO THE GOVT.PLEADER, SR 15048

+ 1 CC TO M/s.K.MEENAKSHISUNDARAM, ADVOCATE SR 15572

KR/21/3/16

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