

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.40566 of 2015
and
M.P.Nos.1 & 2 of 2015

P.Lakshmanan

... Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.

2.The Sub-Registrar, Mylapore,
Chennai-600 004.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records in Proceedings No.Nil, dated 23.09.2015 on the file of the 2nd respondent and to quash the same as illegal, incompetent and without jurisdiction and further to direct the 2nd respondent to return the document No.P155 of 2015 to the petitioner herein.

For Petitioner : Mr.V.Raghavaachari

For respondents : Mrs.P.Rajalakshmi, GA

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 Proceedings No.--, dated 23.09.2015 on the file of the 2nd respondent and to quash the same as illegal, incompetent and without jurisdiction, and further to direct the 2nd respondent to return the Document No.P155 of 2015 to the petitioner herein.

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

2-1.The property situated in No.39, South Canal Bank Raod, Raja Annamalaipuram, Chennai, measuring about 28240 sq.ft originally belonged to one Mr.M.S.Ramasamy Chettiar. The petitioner's Sir.L.C.T.L.Palaniappa Chettiar had purchased the property through registered sale deed from the said Ramasamy Chettiar on 24.12.1951 under Document No.1570 of 1951 and registered in the office of the 2nd respondent. The petitioner's father Palaniappa Chettiar had effected a partition deed between himself and his three sons, namely the petitioner herein and Shri Annamalai and Chidambaram, in and by a partition deed dated 16.05.1960 and registered as Document No.2168 of 1960 allocating 25% each. While so, the petitioner's brother Mr.P.Chidambaram had released his 25% share at South Canal Bank Road in favour of the petitioner's father on 27.01.1969. Consequently, Mr.Palaniappa Chettiar became entitled to 50% undivided share in the property. Later, Sri.Palaniappan Chettiar, P.Annamalai and the petitioner together had purchased 9217 sq.ft from one P.V.G.Raju on 30.01.1973. Thus, the petitioner's father, the petitioner and his brother Annamalai together owned an extent of 37457 sq.ft in the property at No.39, South Canal Bank Road, Raja Annamalaipuram, Chennai (hereinafter referred to as the main property). The petitioner's father Palaniappan Chettiar executed a Will on 25.12.1977 and he died on 19.04.1981. Under the said Will, he had conferred a life estate on the petitioner's mother Lakshmi Achi, and absolute rights in the favour of the petitioner and his brother P.Annamalai in the main property. The petitioner's brother Annamalai died on 05.03.1994, leaving behind him as his legal heirs, the petitioner's mother Lakshmi Aachi, his wife Umayal Aachi and children Palaniappan and Lakshmi. The petitioner's mother also died on 07.06.2013 and after her death, her life interest over the property also got extinguished. After the death of the petitioner's mother, the petitioner and his brother Annamala's family jointly owned the main property. The petitioner wanted a division of the property by metes and bounds between the family of his brother late Annamalai and himself, since he felt that it was no longer possible to retain the property jointly with the family of his late brother Annamalai. Therefore, a division was effected between the petitioner and his brother's sons Palaniappan representing the estate of late Annamalai, by metes and bounds, and the same was registered on 03.07.2014. By the said registered Document dated 03.07.2014, the western portion of the property measuring 18217 sq.ft was allotted to him and the eastern portion measuring 19240 sq.ft was allotted to Mr.A.Palaniappan representing the estate of late Annamalai. As the description of the property required some clarification, a deed of rectification was executed on 05.09.2014. By that document, the description of the property allotted to each of the sharers was set out with clarity and in detail.

2-2.While the parties felt that property deserves to be improved, the need for deed of declaration or affirmation from Mrs.Umayal Annamalai and the petitioner's brother Chidambaram stating that they have no share in the petitioner's property, was felt necessary. Thus, Mr.Umayal Annamalai and the petitioner's brother Chidambaram executed separate Deeds of declaration on hundred rupees non judicial stamp papers, dated 03.09.2015 and 08.09.2015 respectively, declaring that they have no claim, right, interest or share over the property allotted to the petitioner, under the registered document dated 03.07.2014. The Deeds of Declaration executed by the said Umayal Annamalai and the petitioner's brother Chidambaram is nothing more than a recording of the settled events. By the said declaration, no new rights were conferred or created in favour of the petitioner.

2-3.But, when the said Deeds of Declaration were presented for registration, without application of mind a notice was sent by the 2nd respondent dated 23.09.2015 to the petitioner's sister-in-law Umayal Annamalai demanding a sum of Rs.71,33,040/- or threatening to initiate proceedings under Section 33 of the Registration Act, 1908. Hence, the petitioner has come forward with the present writ petition before this Court.

3.When the matter was taken up for consideration, though very many contentions have been raised by the learned counsel for the petitioner to substantiate his claim that the impugned order is not legally sustainable, he finally submitted that the petitioner is not interested in registering the subject Deeds of Declaration executed in favour of the petitioner by his sister-in-law Umayal Annamalai and his brother Chidambaram, dated 03.09.2015 & 08.09.2015 respectively, and that if a direction is given to the respondents to return the said documents, it would suffice.

4.But, the learned Government Advocate appearing for the respondents submitted that the said Deeds of Declaration were forward to the Deputy Registrar, Chennai by the Sub-Registrar, Chennai and that if the petitioner approaches the Deputy Registrar, the said documents would be returned by getting necessary endorsement.

5.In view of the submission made on either side, this Court directs the petitioner to approach the Deputy Registrar, Chennai, along with a copy of this order, requesting to return the subject Deeds of Declaration. On such request being made, the Deputy Registrar, Chennai is directed to return the documents by obtaining necessary endorsement.

With the above terms, the writ petition is disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.
- 2.The Sub-Registrar, Mylapore,
Chennai-600 004.
- 3.The Deputy Registrar,
Mylapore, Chennai-4.

+1cc to the Government Pleader, S.R.No.9378

W.P.No.40566 of 2015
and
M.P.Nos.1 & 2 of 2015

ppa (CO)
srg (10/03/2016)

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