

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.3067 of 2016

V.S.Duraikannan

... Petitioner

Vs.

The Sub-Registrar,
Office of the Sub-Registrar,
Guduvancherry,
Chingleput Taluk,
Kancheepuram District.

... Respondent

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the Respondent to correct the mistake committed by the Respondent in including the Petitioner's property situate at S.No.257/3C, 256/3B 3C and 256/4 in the Encumbrance Certificate vide the representation of the Petitioner dated 13.10.2015 in respect of the Petitioner's property in No.2 Vandalur Village, Chingleput Taluk, Kancheepuram District.

For Petitioner : Mr.K.R.Krishnan

For Respondent : Mrs.P.Rajalakshmi,
Government Advocate.

O R D E R

The petitioner has come forward with this Writ Petition seeking a mandamus upon the Respondent to correct the mistake committed by the Respondent in including the Petitioner's property at S.No.257/3C, 256/3B 3C and 256/4 in the Encumbrance Certificate vide the representation of the Petitioner dated 13.10.2015 in respect of the Petitioner's property at No.2 Vandalur Village, Chingleput Taluk, Kancheepuram District.

2. The petitioner and his family members are owners of lands comprised in four S.Nos.256/4, 257/3C/1E, 257/3C/2, 257/6 measuring an extent of 1 acre and 61 cents in Vandalur Village, Guduvancherry Sub Registrar Office, Chinglepet Taluk, Kancheepuram District. By way of a registered partition deed dated 18.3.2004, the above property was partitioned amongst the members of petitioner's family and in pursuance of the same,

the land measuring 0.61 cents in S.No.257/6, patta No.1838 came to petitioner's share.

3. According to the petitioner, when the petitioner, in order to raise bank loan by mortgaging the property, had applied for encumbrance certificate, he found that the petitioner's property was covered by a partition deed No.7698/2015 registered on 14.3.2014 in the office of the very same respondent. The entries in the encumbrance is dated 7.6.2015 and 3.6.2015 much earlier to the date of petitioner's partition deed. It is a grave mistake to include the property of the petitioner's survey number to the property transaction of some third party as found in encumbrance certificate No.15597 dated 14.9.2015. The petitioner immediately brought to the notice of the Registrar that S.No. of the petitioner's family property has wrongly entered in the name of some third party which has been described as 'receipt' and 'sale deed' relates to Senthil Nagar. But the respondent is not taking any steps to correct the mistake in the encumbrance certificate. The issuance of encumbrance certificate in the name of some third party on the survey numbers of the properties which are absolutely belong to the petitioner (S.No.257/3C, 257/3Cs, 256/3B3C, 254/4) is totally wrong and it stand uncorrected. Therefore the petitioner has sent a detailed representation to the respondent on 13.10.2015 pointing out the discrepancies and to correct the entries in the encumbrance certificate by deleting the survey numbers which is being shown wrongly in the encumbrance certificate as Senthil Nagar. But the respondent has not taken any steps to correct the same till date. Hence, left with no other alternative, the petitioner has filed the present Writ Petition.

4. I have heard the submissions made by the learned counsel for the petitioner and the learned Government Advocate appearing for the respondent.

5. Though very many contentions have been raised in this writ petition, the prayer of the petitioner is to consider the petitioner's representation dated 13.10.2015 to correct the mistake committed by the respondent in including the survey numbers of petitioner's property in the encumbrance certificate.

6. Since the scope of the prayer is limited, this Court, without going into the merits of the case, directs the petitioner to give a fresh representation, narrating the entire factual aspects with necessary documents to the respondent along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order and on such representation, the respondent is directed to consider the same by affording an opportunity of personal hearing to the petitioner as well as to other necessary parties, if necessary,

and pass appropriate orders on merits and in accordance with law within a period of six weeks thereafter.

7. It is made clear that this Court has not expressed any opinion with regard to the merits of the writ petition and it is for the respondent to pass appropriate order purely on merits on the claim made by the petitioner.

msr

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

The Sub-Registrar,
Office of the Sub-Registrar,
Guduvancherry,
Chingleput Taluk,
Kancheepuram District.

+ 1 cc to Govt.Pleader SR 9147

+ 1 cc to Mr.K.R.Krishnan, Advocate SR 9062

vsn(co)
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