

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.4680 of 2016

& W.M.P.Nos.4057 and 4058 of 2016

Mrs.Geetha

.. Petitioner

Vs.

1. The Inspector General of Registration,
100, Santhome High Road,
Mylapore, Chepauk, Chennai-28.
2. District Revenue Officer (Stamps),
Singaravelar Maligai,
Rajaj Salai, Chennai-1.
3. The Sub-Registrar,
Guduvancheri,
Chengalpatu District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the entire records of the second respondent in Na.Ka.C. Pa.N.1/13, dated 07.12.2015 and quash the same.

For Petitioner : Mr.V.Manohar

For Respondents : Mr.S.Navaneethan, Addl.G.P.

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Certiorari to call for the entire records of the second respondent in Na.Ka.C. Pa.N.1/13, dated 07.12.2015 and quash the same.

2. In the affidavit filed in support of the Writ Petition, it is stated by the petitioner that her husband had registered a settlement deed in her favour regarding his undivided shares in the lands mentioned in the schedule thereunder, by way of Document No.5308 of 2009, dated 14.10.2009 on the file of the

third respondent, on payment of necessary charges as prescribed for the instrument of settlement and the document has also been released by the third respondent. It is her further case that the third respondent, after more than a year and six months from the date of registering the said settlement deed in Document No.5308 of 2009, had passed an order dated nil, against her husband, which was sent by Registered Post, received on 12.04.2011, claiming a sum of Rs.2 lakhs towards deficit registration fee on the basis of the alleged audit note. Since the notice was sent without any jurisdiction, the petitioner's husband filed a Writ Petition in W.P.No.10481 of 2011, in which, there is an order of interim stay and it is still pending before this Court. The second respondent issued Form-1 notice, dated 24.05.2013 to the petitioner, claiming a sum of Rs.2 lakhs for the alleged under-valuation in respect of Document No.5328 of 2009, registered on the file of the third respondent. On receipt of the notice, the petitioner's husband took the issue with the second respondent, by stating that there is no connection in respect of Document No.5328 of 2009 and it has nothing to do with the petitioner and her husband, since the settlement deed document number is 5308 of 2009 on the file of the third respondent. The second respondent did not take any action for more than two years, and suddenly, the impugned order dated 07.12.2015 is passed, claiming a sum of Rs.2 lakhs for the under-valuation of Document No.5328 of 2009, further stating that if aggrieved by the order, an appeal may be preferred to the first respondent. Since the impugned order is passed without jurisdiction, the petitioner has filed this Writ Petition.

3. In the counter affidavit filed by the respondents, it is stated that one document has been registered in Doc.No.5308 of 2009 in the office of the third respondent and another document in Doc.No.5328 of 2009 was also registered on the file of the third respondent. The second respondent issued Form-1 notice, dated 24.05.2013 to the petitioner, claiming a sum of Rs.2 lakhs for the alleged under-valuation of the document. While sending the notice, there was a clerical mistake stating as Doc.No.5328 of 2009, instead of Doc.No.5308 of 2009 on the file of the third respondent. The said clerical notice has been found out subsequently after issuance of notice and therefore, the earlier notice sent to the petitioner contained Doc.No.5328 of 2009 instead of Doc.No.5308 of 2009. It is further stated in the counter affidavit that Doc.No.5308 of 2009 related to the settlement deed, whereas Doc.No.5328 of 2009 related to the sale deed. The above mistake has been rectified and corrected as Doc.No.5308 of 2009.

4. From the counter affidavit filed by the respondents, it is seen that the document number was wrongly mentioned and it was a clerical mistake. In the affidavit filed by the petitioner in support of the Writ Petition, it is clearly stated that the

petitioner's husband, on receipt of Form-1 notice by her, took up the issue with the second respondent stating that there is no connection in respect of Document No.5328 of 2009, since their document is settlement deed in Document No.5308 of 2009 on the file of the third respondent and that the document in Doc.No.5328 of 2009 has nothing to do with the document of the petitioner and her husband, in Doc.No.5308 of 2009. In spite of the above averment made by the petitioner's husband, the impugned order has been passed on 07.12.2015.

5. In the above background of the case, since the respondents have taken a stand in the counter affidavit that they have wrongly mentioned the document number, this Court is of the view that the matter has to be remitted back to the respondents. Accordingly, while setting aside the impugned order, dated 07.12.2015, the matter is remitted back to the respondents, with liberty to issue fresh notice by correctly mentioning the number of the relevant document and proceed in accordance with law.

6. With the above observations, the Writ Petition is disposed of. No costs. W.M.Ps. are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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Copy to

1. The Inspector General of Registration,
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2. District Revenue Officer (Stamps),
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3. The Sub-Registrar,
Guduvancheri,
Chengalpatu District.

+1 cc to Government Pleader sr.16981

+1 cc to Mr.V.Manohar Advocate sr.16817

W.P.No.4680 of 2016

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