

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.949 of 2016
and
W.M.P.No.710 of 2016

Mariammal @ Mari

... Petitioner

vs.

1. The Sub Registrar,
Thiruvallur District.

2. Rasa @ Raja

3. Sharmila Azariah

4. The District Registration Officer,
Thiruvallur District.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents 1 and 4 to hold enquiry with respondents 2 and 3 in the presence of the petitioner on the fraudulent document No.790 of 2015 dated 29.1.2015 registered before the first respondent and consequently, direct the fourth respondent to cancel the fraudulent documents by taking suitable action on the respondents 2 and 3 as per Registration Act.

For Petitioner : Mr.I.Arokiya Selvaraj

For Respondents : Mrs.P.Rajalakshmi,
Government Advocate,
for R.1 and R.4

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ORDER

The petitioner has come up with the present writ petition for the issuance of writ of mandamus, directing the respondents 1 and 4 to hold enquiry with respondents 2 and 3 in her presence on the fraudulent document No.790 of 2015 dated 29.1.2015 registered before the first respondent and

consequently, direct the fourth respondent to cancel the fraudulent documents by taking suitable action on the respondents 2 and 3 as per Registration Act.

2. When the matter came up for hearing on 9.2.2016, this Court has ordered fresh private notice to the respondents 2 and 3. As per the said order, though notice was served on the third respondent and her name was printed in the cause list, no one entered appearance on her behalf. Further, the notice served on the second respondent was returned with the postal endorsement 'Left'. However, in view of the order that is going to be passed hereunder, I am of the opinion that there is no need for this Court to issue further notice to the respondents 2 and 3.

3. It is the case of the petitioner that her mother was the owner of the properties measuring to an extent of 0.24 cent in Survey No.601/3B, an extent of 0.24 cent in Survey No.602/2, an extent of 0.29 in Survey No.612, totally 1.87 cents. All the above lands were under the control of her mother and patta was also standing in her name in respect of the said properties. Apart from that, one pump set in Survey No.610 and one stone house in Survey No.442/B1 were also under the control of the petitioner's mother. The petitioner's mother died on 15.4.1981. Thereafter, the second respondent herein, who is the son of the petitioner's sister, by cheating her son, got forged patta in his name from the first respondent. He has also got a sale deed in Document No.11399 of 2007 dated 27.6.2007 in his favour registered before the first respondent as if the sale deed was executed by her son Sasikumar. But, the petitioner's son never executed any sale deed in favour of the second respondent. Hence, the said document is a forged one. Further, the second respondent by creating forged documents executed a sale deed in favour of the third respondent in respect of the petitioner's mother's properties in document No.790 of 2015 dated 29.1.2015 before the first respondent and obtained patta. Since the second respondent has grabbed the properties of the petitioner's mother by creating forged documents, the petitioner made a detailed representation dated 18.2.2015 to the respondents 1 and 4. But, till date, the respondents 1 and 4 have not considered the said representation. Hence, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 and 4.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the fourth respondent to conduct an enquiry on the representation of the petitioner dated 18.2.2015, by affording an opportunity of personal hearing to the petitioner as well as to the respondents 2 and 3 and other necessary parties, if any, and pass / take appropriate orders / action, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that this Court is not expressing any opinion with regard to the claim made by the petitioner and it is for the fourth respondent to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sbi

To

1. The Sub Registrar,
Thiruvallur District.
2. The District Registration Officer,
Thiruvallur District.

+1cc to Mr.B.Chandran, Advocate, S.R.No.10616
+1cc to the Government Pleader, S.R.No.10590

W.P.No.949 of 2016

PPA(CO)
CA(09/03/2016)

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