

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

Writ Petition Nos.2302 and 2303 of 2017

Antony Josephine

... Petitioner in both W.Ps.

vs.

1. The Inspector General of Registration,
Santhome High Road,
Chennai 600 028.
2. The District Registrar,
Chengalpet.
3. The Sub-Registrar,
Thiruporur. ... Respondents in both W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of writs of certiorarified mandamus to call for the entire records in connection with the impugned orders of the 3rd respondent in Na.Ka.No.426/2016 and Na.Ka.No.427/2016, respectively, dated 31.08.2016 and quash the said proceedings and consequently direct the 3rd respondent to go into the matter afresh denova without reference to the instructions issued by the 2nd respondent, dated 18.07.2016 and further direct the 3rd respondent to register the pending Document Nos.396 and 397/2014, respectively, pending on the file of the 3rd respondent.

For Petitioner in both W.Ps. : Mr.K.Venkatachalapathy,
Senior Counsel for
Mr.S.Wilson

For Respondents in both W.Ps. : Mr.A.Kumar,
Special Government Pleader

COMMON ORDER

Since the issue involved in both the Writ Petitions is one and the same, both petitions are taken up for disposal by a common order.

2. The petitioner has come up with the above Writ Petitions seeking to quash the impugned orders of the 3rd respondent in Na.Ka.No.426/2016 and Na.Ka.No.427/2016, respectively, dated 31.08.2016 and for a consequential direction to the 3rd respondent to go into the matter afresh denova without reference to the instructions issued by the 2nd respondent, dated 18.07.2016 and further direct the 3rd respondent to register the pending Document Nos.396 and 397/2014, respectively, pending on the file of the 3rd respondent.

3. According to the petitioner, the lands situated in Survey No.1, Thandalam Village of Thiruporur Taluk, Kancheepuram District was originally assigned to one Mr.Kanniappan and others, by allotment order made as early as 29.07.1963. The Panchayat of Thandalam passed Resolution No.38, dated 05.12.1990 expressing no objection for issuance of patta in favour of Kanniappan, who appointed the petitioner's father, viz. D.Peter Francis, an Advocate, as his Power of Attorney agent.

4. It is further stated by the petitioner that she purchased 6 cents in the said Survey number under a valid sale deed dated 06.08.1997 registered as Document No.1566 of 1997 on the file of the Sub-Registrar, Thiruporur. She purchased the remaining extent of the land from the said Kanniappan and others, by means of two Sale Deeds, dated 09.12.2014 and presented them for registration on 09.12.2014 registered as Pending Document Nos.396 and 397 of 2014. But, the Sub-Registrar, by his memo, dated 01.09.2015 placing reliance on the Circular dated 25.04.2012 issued by the Inspector General of Registration, insisted the petitioner to produce patta in respect of the said land. The petitioner replied that pursuant to the decree in A.S.No.54 of 2008, the vendors are declared as absolute owners and hence requested to admit the documents for registration. According to the petitioner, as far as the lands are concerned, even after assignment and the court decree, the revenue records were not mutated in the name of the assignee.

5. Thereafter, as there was interference, the petitioner and the petitioner's vendor viz. Kanniappan and others approached the Civil Court against the Government of Tamil Nadu and the District Collector, Kancheepuram praying for a declaration that the plaintiffs therein are the absolute owners of the entire extent of land including the six cents purchased by the petitioners on 06.08.1997 and for a permanent injunction in O.S.No.243 of 2006 on the file of the Principal Sub Judge, Chenglepet. Since the suit came to be dismissed on 17.09.2007, the plaintiffs therein filed an appeal in A.S.No.54 of 2008 and after contest, the appeal came to be allowed by the Principal District Judge, Chenglepet, by a judgment dated 15.12.2010, granting a decree of declaration of title for the entire extent

of land as well as permanent injunction and no appeal was filed against the said judgment.

6. Pursuant thereto, the petitioner was asked to produce patta in favour of her vendor, by a communication of the 3rd respondent, dated 01.09.2015, failing which, the documents will be returned. The petitioner submitted her explanation on 18.09.2015 and the 3rd respondent has addressed the 2nd respondent seeking clarification and the correspondence goes to show that it is only with reference to the guideline value, a clarification was sought from the 3rd respondent, by his letter dated 21.04.2016. In response to the said letter, the 2nd respondent inspected the property in question after informing the petitioner and sent a communication dated 18.07.2016 expressing an opinion that the decree of the Civil Court was only for grant of permanent injunction that there was no decree for declaration of title to the property in question. On the basis of the same, the 3rd respondent has passed the impugned orders dated 31.08.2016, rejecting the two Sale Deeds of the petitioner. Aggrieved by the same, the petitioner has also preferred appeals. It is the contention of the petitioner that the 3rd respondent has not acted independently with reference to the records available with him and had acted only as per the directions of the 2nd respondent. Hence, having no other alternative, she is before this Court by way of the above Writ Petitions.

7. Learned Senior Counsel appearing for the petitioner pointed out that in the impugned orders, the 3rd respondent has rejected the documents submitted for registration only on the ground that there is no title deed to the property. In fact, he has relied upon a Report dated 18.07.2016 of the District Registrar, Chengalpet, wherein, it is stated that when the matter was referred to for fixing the value, the property in question was mentioned as 'poramboke land' and they have wrongly stated that the property is not owned by her, whereas, in A.S.No.54 of 2008, the Principal District Judge, Chengalpet, by an order dated **(*)15.12.2010**, has held that the property in question has been declared to be that of the petitioner's vendors' title. It is the contention of the learned Senior Counsel that when there is a Civil Court order, which is binding on both the parties, the said aspect has not been considered by the 3rd respondent, while passing the impugned orders.

8. Heard the learned counsel on either side and perused the material documents available on record.

9. Having regard to the submissions made by the learned counsel on either side and considering the facts and circumstances of the case, this Court feels it appropriate to

set aside the impugned orders dated 31.08.2016 passed by the 3rd respondent, as the same have been passed unmindful of the decree passed by the Court below in A.S.No.54 of 2008.

10. Accordingly, the impugned orders dated 31.08.2016 are set aside and the matter is remitted to the 3rd respondent for fresh consideration, dehors the proceedings of the 2nd respondent/District Registrar, Chengalpet and the 3rd respondent/Sub-Registrar, Thiruporur shall take into consideration the decree of the Court below, which clearly establishes the title of the petitioner over the subject property, **(*)for registering the punding document Nos.396 of 2014 and 397 of 2014 respectively** and pass appropriate orders on merits and in accordance with law, after giving notice to the parties, as expeditiously as possible.

These Writ Petitions are allowed with the above direction. No costs. Consequently, connected W.M.P.Nos.2290 and 2291 of 2017 are closed.

-s/d-
Assistant Registrar

(*)Corrected as per order of this Court dated 21.03.2017

Sd/-
Assistant Registrar
True Copy

Sub-Assistant Registrar

aeb

To:

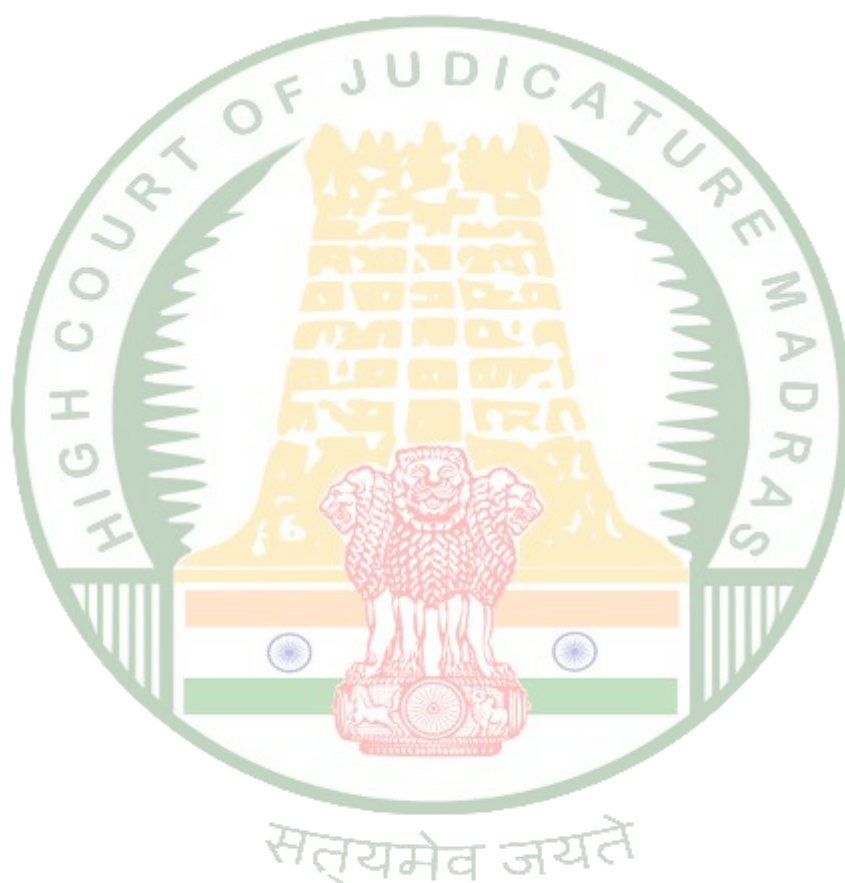
1. The Inspector General of Registration,
Santhome High Road
Chennai 600 028.
2. The District Registrar,
Chengalpet.
3. The Sub-Registrar,
Thiruporur.

To be substituted to
the order already
despatched on
09.03.2017

+1 cc to M/s.S.Wilson Advocates sr **(*)17527**
+1 cc to Government Pleader sr 12639

Common order in
W.P.Nos.2302 & 2303 of 2017

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