

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 31.10.2017

CORAM

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE P.KALAIYARASAN

Writ Petition No.33150 of 2012
and M.P.Nos.1 and 2 of 2012
and M.P.No.1 of 2015

K.Saroja Petitioner

vs.

1.The Inspector General of Registration
Santhome,
Chennai-600 028

2.The District Registrar
(Administration) Chennai South,
Saidapet, Chennai-600 015

3.The Sub-Registrar
Tambaram,
Chennai-600 045

4.The Sub-Registrar
Virugambakkam
Chennai-600 092

5.S.Ganapathy

6.N.Ramachandran

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records comprised in proceeding bearing No.1280/Aa1/2012 on the file of the 2nd respondent dated 12.07.2012 and to quash the same and consequently direct the respondents to restore the entries in the relevant indexes in respect of the document Nos.535 of 1996 and 5292 of 2003 on the file of the Sub-Registrar, Tambaram and the Document No.1018 of 1995 on the file of the Sub-Registrar, Virugambakkam, as it stood prior to the date of the impugned order dated 12.07.2012 in the Proceedings No.1280/Aa1/2012 on the file of the 2nd respondent.

For Petitioner : Mr.S.Sundaragopal

For Respondents : Mr.R.Vijayakumar,
Addl.Govt.Pleader for R1 to R4
Mr.K.V.Ananthakrishnan for R5 and R6.

ORDER

(Order of the Court was made by A.SELVAM, J.)

This Writ Petition has been filed under Article 226 of the Constitution of India, praying to call for records relating to the impugned order dated 12.07.2012 passed in Proceedings No.1280/Aa1/2012 by the 2nd respondent and also for passing consequential orders by way of issuing a Writ of Certiorarified Mandamus.

2. The learned counsel appearing for the petitioner has contended to the effect that the petitioner has purchased property in question for valuable consideration, but the 5th respondent has erroneously given a representation to the 2nd respondent so as to cancel the sale deed which stands in the name of the petitioner. The 2nd respondent simply on the basis of Circular No.67 dated 03.11.2011, has passed the impugned order dated 12.07.2012 in Proceedings No.1280/Aa1/2012 and thereby cancelled the sale deed which stands in the name of the petitioner and in the said circumstances, the present Writ Petition has been filed for getting the reliefs sought therein.

3. The learned counsel appearing for the respondents 5 and 6 has also contended on the basis of the counter filed on the side of the 5th and 6th respondents to the effect that the 5th respondent is the absolute owner of the property in question and he sold the same to various persons including the 6th respondent, but a Power of Attorney deed has been concocted as if the same has been created by the 5th respondent and subsequently various sale deeds have become emerged and the present Writ Petitioner has purchased a portion of the property in question and therefore, the 5th respondent has given a representation to the 2nd respondent and the 2nd respondent after considering the available evidence and the submission of the petitioner, cancelled the sale deed which stands in the name of the petitioner by virtue of the impugned order dated 12.07.2012 and therefore, the present Writ Petition deserves to be dismissed.

4. It is an admitted fact that on the basis of representation given by the 5th respondent, the 2nd respondent has passed the impugned order dated 12.07.2012, whereby, cancelled the sale deed which stands in the name of the petitioner by virtue of Circular No.67 dated 03.11.2011. It is also equally an admitted fact that the Circular No.67 dated 03.11.2011 has

been subsequently withdrawn by the Government of Tamil Nadu by virtue of another Circular dated 20.10.2017.

5. As pointed out earlier, the entire order of the 2nd respondent proceeds on the basis of Circular No.67 dated 03.11.2011 after due enquiry. Considering the fact that Circular No.67 dated 03.11.2011 itself has been subsequently withdrawn and also considering the fact that the 2nd respondent is not having power under Section 83 of the Registration Act, 1908 to cancel a particular document, this court is of the view that the impugned order passed by the 2nd respondent is erroneous and is liable to be quashed.

In fine, this Writ Petition is allowed without costs. The impugned order dated 12.07.2012 passed in Proceedings No.1280/Aa1/2012 by the 2nd respondent is quashed. However, the petitioner is directed to file a civil suit so as to establish her title to the property in question. The 5th respondent is at liberty to give a fresh representation to the 2nd respondent by way of attracting the provisions of Section 83 of the Registration Act, 1908. Both parties are at liberty to institute a civil suit so as to establish rival title in respect of property concerned.

Consequently, connected Miscellaneous Petition are closed.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

nvsri

To

1.The Inspector General of Registration
Santhome,
Chennai-600 028

2.The District Registrar
(Administration) Chennai South,
Saidapet, Chennai-600 015

3.The Sub-Registrar
Tambaram,
Chennai-600 045

4.The Sub-Registrar
Virugambakkam
Chennai-600 092

+2 Cc to Mr.K.V.Ananthakrishnan, Advocate sr 77238.
+4 cc to Mr.S.Sundaragopal, advocate sr 77857
+1 Cc to Govt. Pleader sr 77165.

Writ Petition No.33150 of 2012

SP(10/11/2017)



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