

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 09.11.2018

Pronounced on : 16.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No. 17710 of 2013

and

M.P.No.1 of 2013

Saraswathiammal ... Petitioner

vs.

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

2.The District Registrar,
Office of the District Registrar,
No.17, Rajaji Street,
Chengalpattu.

3.Sakunthala ... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari calling for records on the file of the 2nd respondent in Na.Ka.No.4971/A1/ 2012 dated 26.04.2013 pertaining to the complaint of the 3rd respondent with regard to the land grabbing case in S.No.3/1, Salamangalam Village, Thiruperumbudur and quash the same as illegal arbitrary and sustainable under law.

For Petitioner : Mr. G.Senthilkumar

For Respondents : Mr.P.P.Purushothaman

Government Advocate for R.1 & R.2

: None appeared for R.3

O R D E R

The instant writ petition is for a direction calling for the records on the file of the 2nd respondent in Na.Ka.No.4971/A1/2012 dated 26.04.2013, pertaining to the complaint of the 3rd respondent with regard to the land grabbing case in S.No.3/1, Salamangalam Village, Thiruperumbur and the quash the same as illegal, arbitrary and sustainable under law.

2. It is the case of the petitioner that, she and 3rd respondent one Smt.Sakunthala were partners in the firm by name Lalitha Traders. The partnership firm was constituted by a Registered deed on 12.11.1963. It is stated in the writ petition that, even though the petitioner and 3rd respondent were partners, their husbands were the guiding force behind the business. The said partnership firm did business for the period of 5 years and the firm was dissolved on 28.06.1969 by a registered document No.18/1969 with effect from 30.06.1967.

3. It is stated by the petitioner that, the petitioner had executed a release deed on 28.02.1969 conveying various extent of lands in Shanmuga Nagar Layout, Mannivakkam village, Tambaram. The petitioner states that, she received a notice dated 26.04.2013 issued by the District Registrar, calling her to appear for an enquiry. She states that another notice dated 04.06.2013 was received called upon her to appear for an enquiry. She further states that she has come to know that the notice was issued pursuant to a complaint given by the 3rd respondent. It is relevant to extract the complaint in its entirety.

" The petitioner, a senior citizen about 76 years, above named begs to state as follows:-

1.It is submitted that the petitioner and one Saraswathiammal were running a partnership firm in the name and style of Lalitha Traders having their Registered office at No.31, Ranganathan Street, T.Nagar, Chennai - 600 017 on the strength of the Partnership Deed executed on 12.-11.1963 that was registered as document No. 23/1963 on the files of SRO Tambaram (Copy enclosed). While so, the properties in and around Tambaram, Guduvancherry and Sriperumpudur areas had been purchased, out of which some were in the name of the petitioner and some were in the name of the said Saraswathiammal. The partnership firm had plotted many lay outs and sold out to various buyers.

2.While so, on 30.06.1967, the petitioner and her partner (Saraswathiammal) had decided to dissolve the partnership firm and accordingly a dissolution agreement was entered between them and reduced into writing on 30.06.1967 (Copy enclosed) and in that the assets and liabilities were worked out in detail and divided between them. On that date, all the unsold plots were identified as standing in the petitioner's name and the said Saraswathiammal's name and on the same day possession of the properties were also handed over and taken over between them as agreed as per the dissolution of partnership. The said dissolution was signed by both parties and the said Saraswathiammal and the petitioner had handed over and taken over the

possession of their respective properties.

3. That the petitioner states that thereafter a dissolution deed was registered as Doc No. 16/1969 (copy enclosed) on 28.02.1969 and on the same date a release deed also was executed and registered as document No. 1160/1969 (copy enclosed) on the file of Sub Registrar, Tambaram. It is pertinent to note here that the recitals and terms of the dissolution agreement dated 30.06.1967 between the parties had been duly incorporated in the said release deed which was also drafted by one Mr. Sambasivam who was none other the husband of the said Saraswathiammal. Furthermore, it is very clearly stated in the said dissolution deed document No. 18/1969 that the dissolution was effective from 30.06.1967. Hence the properties devolved on to the petitioner were very clear and Saraswathiammal has no right or title to deal with such properties.

4. In that the following properties were sold out by the said Saraswathiammal after handing over possession of the same after the dissolution and before the execution and registration of release deed. The said Saraswathiammal had malafide intention of cheating and committing fraud after handing over the physical possession of the properties to out petitioner. It is pertinent to note that on the date of dissolution agreement as early as on 30.06.1967, the possession of the properties were handed over to the petitioner as part performance of the release deed and hence even assuming, the sale deeds executed by the said Saraswathiammal without notice to the petitioner and further fraudulently including them in the released deed is invalid in the eyes of law. It is submitted that eventhough there is delay in the claim of the petitioner, as per the circular of the IG Registration, fraud once it is committed, it vitiates everything and the delay is not a bar.

List of properties with details of fraudulent sale deeds

Sri Venkateswara Nagar: Salamangalam Village; SRO: Sriperumbudur.

Sl.No	Plot No.	Survey No.	Extent in Sq.ft	Sale deed Doc.No
1	54 & 55	3/1 & 9/4	2400+2400	2989/68
2	79 & 80	3/1 & 3/2	2400+2400	2737/67
3	81	3/2 & 3/3	2400	2739/67
4	83 & 84	3/3	2400+2400	2738/67
5	87,88 & 89	3/4 & 3/5	2400+2400+2662	2985/68
6	90 & 91	3/5	2610+2610	2740/67
7	92	3/4 & 3/5	2400	2741/67
8	95,96,98 & 99	3/2 & 3/3	2400 Each	2742/67
9	133	3/2 & 3/3	2400	2987/68
10	135,136 & 137	3/2, 3/3 & 3/4	2400 Each	2988/80

In view of the above, it is humbly requested that your authority may issue necessary process to the respondent and conduct enquiry with regard to the fraudulent act committed by the respondent and further pass an order of cancellation of the sale deeds as mentioned in at para 4 above and thus render justice."

4. A perusal of the complaint would show that it is allegation of the 3rd respondent that petitioner had sold these properties before the dissolution deed which was registered on 28.02.1969.

5. Be it as it may, the Registrar has only called the petitioner for the purpose of an enquiry. Nothing has been shown as to how the Registrar of the documents is not empowered to conduct an enquiry regarding the sale deed which are alleged have been executed by fraud. It is up to the petitioner whether to participate in the enquiry or not. Writ cannot be issued restraining the Registrar from conducting an enquiry unless the Registrar does not have jurisdiction to conduct an enquiry.

6. Accordingly the writ petition fails and it is dismissed. There shall be no order as to costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

pkn/gsp

Sub Assistant Registrar

To

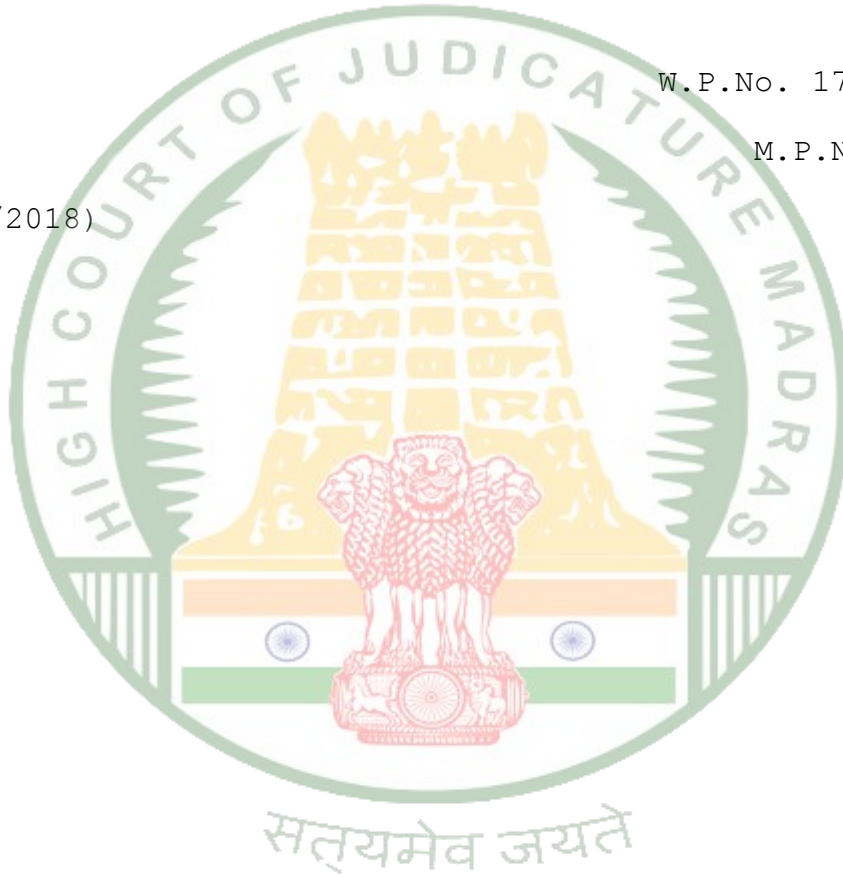
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Santhome High Road,
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2.The District Registrar,
Office of the District Registrar,
No.17, Rajaji Street,
Chengalpattu.

+1 cc to the Government Pleader, S.R.No.79200

W.P.No. 17710 of 2013
and
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RK(CO)
SSM(07/12/2018)



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