

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.01.2018

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE P.KALAIYARASAN

W.P.No.16550 of 2016

1.A.Muthukrishnan
2.M.Thara

... Petitioner

Vs

1.The District Registrar,
Chidambaram Registration District,
Chidambaram 608 001.

2.The Inspector General of Registration,
100, Santhome High Road,
Pattinapakkam, Chennai-28.

3.The Joint Sub Registrar,
Chidambaram,
Cuddalore District 608 001.

4.Ekambaram

5.Rukmani

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus to direct the 3rd respondent to cancel the Settlement Deed dated 24.11.2011 registered as document No.7036/2011 executed by the 4th

respondent in favour of 5th respondent in pursuant to Circular No.67 dated 03.11.2011 bearing C.No.52338/C1/2011 issued by the 2nd respondent.

For Petitioners : Ms.G.Uma Maheswari
For R1 to R3 : No appearance
For R4 & R5 : Ms.G.Sumitha

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 direct the third respondent to cancel the Settlement Deed dated 24.11.2011 [document No.7036/2011] by way of issuing Writ of Mandamus.

2.It is averred in the petition that the petitioners are the absolute owners of property of T.S.No.130/2 admeasuring 1250 sq.ft Muthumanicka Nadar Street, Chidambaram town and they are in enjoyment of the same.

3.The fourth respondent even without having title to T.S.No.130/2 has fraudulently executed a Settlement Deed dated 24.11.2011 in favour of the fifth respondent, who is none other than his wife and the same has been registered by the third respondent. Under such circumstances, the present writ petition has been filed for getting the relief sought therein.

4.The learned counsel appearing for the petitioners has contended to the effect that the petitioners are the owners of T.S.No.130/2 measuring 1250 sq.ft. Muthumanicka Nadar Street, Chidambaram town and they are enjoying the same from time immemorial. The fourth respondent has fraudulently executed a Settlement Deed dated 24.11.2011 in favour of his wife, viz., fifth respondent and the same has been registered by the third respondent and as per Circular No.67 dated 03.11.2011, the first respondent can be directed to take appropriate action.

5.The learned Government Advocate appearing for the respondents No.1 to 3 is not present.

6.The learned counsel appearing for the respondents No.4 and 5 has sparingly contended to the effect that the petitioners are not the owners of T.S.No.130/2. The fourth respondent is the absolute owner of the same and he voluntarily executed the Settlement Deed dated 24.11.2011 in favour of his wife, viz., fifth respondent and further, Circular No.67 dated 03.11.2011 has been subsequently withdrawn by virtue of Circular dated 20.10.2017. and therefore, the relief sought in the writ petition has become infructuous.

7.The main contention put forth on the side of the petitioners is that they are the absolute owners of T.S.No.130/2 admeasuring 1250 sq.ft Muthumanicka Nadar Street, Chidambaram town. But the contention put forth on the side of the respondents No.4 and 5 is that the fourth respondent is the absolute owner of the same and he voluntarily executed the Settlement Deed dated 24.11.2011 in favour of the fifth respondent.

8.It is an admitted fact that the entire relief sought in the writ petition is only based upon Circular No.67 dated 03.11.2011. It is also equally an admitted fact that the same has been withdrawn by virtue of order dated 20.10.2017 by the Government of Tamil Nadu.

9.Considering the fact that Circular No.67 has been subsequently withdrawn by the Government of Tamil Nadu, the first respondent is not having power to act on the basis of the same.

10.In the instant case, both the petitioners and respondents No.4 and 5 are claiming equal title to T.S.No.130/2 measuring 1250 sq.ft Muthumanicka Nadar Street, Chidambaram town.

11. Since a rival title has been claimed with regard to T.S.No.130/2, the petitioners can very well file a civil suit to establish their title. Further, the petitioner can invoke the provisions of Section 83 of the Registration Act, 1908. Under such circumstances, the relief sought in the writ petition cannot be granted. With the above observations, this writ petition is disposed of.

In fine, this writ petition is disposed of on the basis of the observation made earlier. However, it is made clear that the petitioners are at liberty either to file a civil suit or to send a complaint to the first respondent under Section 83 of the Registration Act, 1908. No costs.

[A.S., J.]

[P.K., J.]

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03.01.2018

To

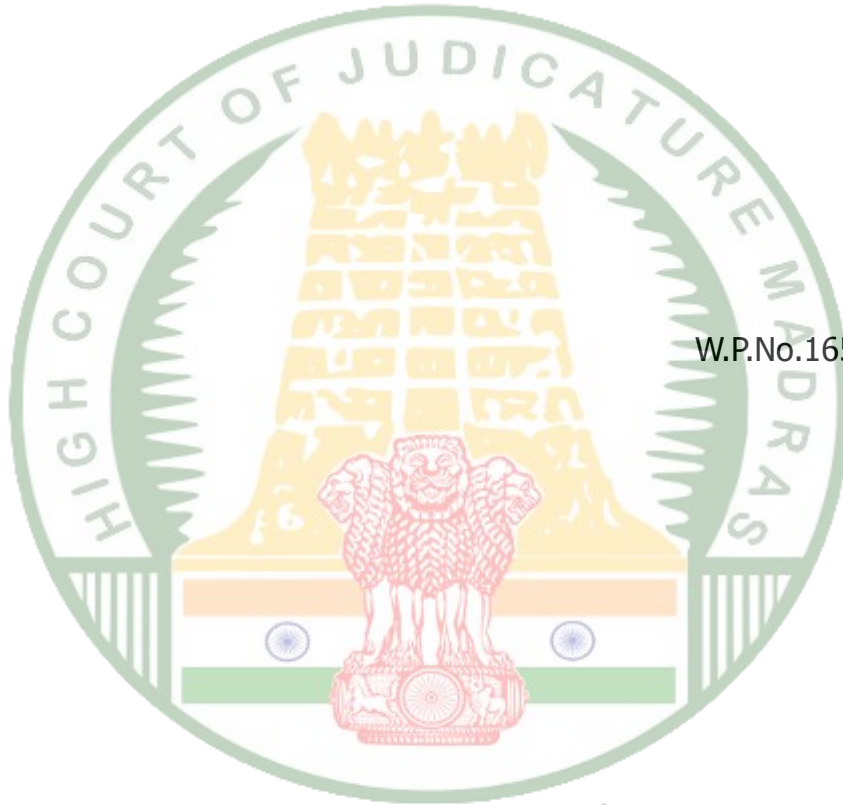
1. The District Collector,
Kancheepuram District at
Kancheepuram.

2. The Inspector General of Registration,
Santhome High Road, Chennai.

3. The Sub Registrar,
Guduvanchery.

A.SELVAM, J.
and
P.KALAIYARASAN, J.

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