

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.32454 of 2013
& M.P.No.1 of 2013

1. N.Rajagopal Pillai
2. Mangailakshmi

...Petitioners

Vs.

1. The District Registrar,
Kancheepuram District.
2. The Sub Registrar,
Walajahpath,
Kancheepuram District.
3. R.Sampath Kumar
4. E.Gajendran
5. P.Palani

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the 1st and 2nd respondent to consider the application of the petitioners dated 10.09.2013 for cancellation of the Sale Deed vide Doc.No.4332/2012, dated 18.07.2012.

For Petitioner : Mr.M.Sankar

For Respondents : Mr.A.Ansar, G.A. (for RR1 & 2)
No appearance (for RR3 & 4)
Mr.V.R.Thangavelu (for R5)

ORDER

The present writ petition has been filed seeking for issuance of a Writ of Mandamus to direct the respondents 1 & 2 to consider the application of the petitioners dated 10.09.2013 for cancellation of the Sale Deed, dated 18.07.2012.

2. The case of the petitioners is that they have purchased the property in dispute, vide sale deed dated 17.08.1979, and they executed a settlement deed in favour of their son, viz., the 3rd respondent herein, through settlement deed, dated 22.06.2005. Thereafter, the 3rd respondent has executed a power

of attorney on 15.06.2012 in favour of the 4th respondent and based on the power of attorney, he sold the property to the 5th respondent on 18.07.2012.

3. The grievance of the petitioner is that after cancellation of the settlement deed, dated 22.06.2005, through cancellation of settlement deed, dated 11.07.2012, the power of attorney sold the said property to the 5th respondent. Hence, the petitioners gave a representation, dated 10.09.2013 for cancellation of the sale deed. Since no action was taken, the present writ petition.

4. Heard the learned counsel for the petitioners, learned Government Advocate for the respondents 1 & 2 and the learned counsel for the 5th respondent. Despite service of notice to the respondents 3 & 4, they have not chosen to appear and contest the writ petition.

5. It is brought to the knowledge of this Court that the 1st petitioner has already instituted a suit in O.S.No.60 of 2017 before the District Munsif Court, Kancheepuram against the respondents 3 to 5, seeking declaration to declare the sale deed, dated 06.07.2012 as null and void and for consequential permanent injunction.

6. The learned counsel for the petitioner submitted that the 5th respondent has filed a writ petition in W.P.No.15714 of 2016 to set aside the cancellation of the settlement deed dated 11.07.2012.

7. The learned counsel for the 5th respondent submitted that since the petitioner had already approached the Civil Court for comprehensive prayer, this writ petition is not maintainable and hence this petition can be closed.

8. In the instant case, admittedly the petitioner has approached the Civil Court seeking declaration of sale deed as null and void, and the suit is pending. The issue involved in this case requires appreciation of evidence and the respondent is not the competent authority for redressal of the grievance of the petitioner.

9. In the light of the above facts, in the considered opinion of this Court, the petitioner is not entitled for the relief sought for in this writ petition. The writ petition fails and the same is dismissed. It is needless to mention that the Civil Court shall decide the suit on merits and in accordance with law, without being influenced by the order passed in this writ petition. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

pvs
To

1. The District Registrar,
Kancheepuram District.

2. The Sub Registrar,
Walajahpath,
Kancheepuram District.

+1cc to M/s.M.Sankar, Advocate SR.No.10146

+1cc to Mr.V.R.Thangavelu, Advocate SR.No.10326

+1cc to Government Pleader Sr.No.11020

RR(CO)

sm:5.3.2018

WP.No.32454 of 2013

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