



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 3.12.2018

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.8684 of 2017

P.Sivasubiramani

..Petitioner

Vs

1.The District Registrar,
Sivagangai District,
1A,Thirupathur Salai,
Sivagangai.

2.The Sub-Registrar,
Thiruppuvanam Sub-Registrar's Office,
Thiruppuvanam,
Sivagangai District.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the second respondent to record the sale deed in Document No.1449/2007 of Thiruppuvanam Sub-Registrar Office as invalid and to remove the said sale transaction in encumbrance relating to the property of the Petitioner in S.No.1/3A, measuring an extent of 97 cents and in S.No.9/2, measuring an extent of 4 acres and 50 cents in Pillaiyar Kulam village, Tiruchuli Taluk, Virudhunagar District, based on the representation made by the Petitioner dated 21.3.2017.

For Petitioner :Mr.Vijayarajan

For Respondents : Mr.M.Murugan
1 and 2 Government Advocate**ORDER**

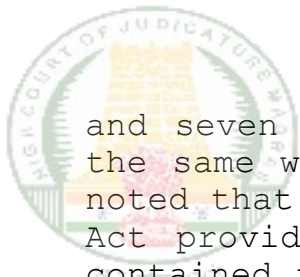
The Petitioner has prayed for issuance of a Writ of Mandamus directing the second respondent to record the sale deed in Document No.1449/2007 of Thiruppuvanam Sub-Registrar Office as invalid and to remove the said sale transaction in encumbrance relating to the property of the Petitioner in S.No.1/3A, measuring an extent of 97 cents and in S.No.9/2, measuring an extent of 4 acres and 50 cents in Pillaiyar Kulam, Tiruchuli Taluk, Virudhunagar District, based on the representation made by the Petitioner dated 21.3.2017.



2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The above-stated land belongs to the Petitioner's grand-father Rengaiah Servai and as per the oral partition, the Petitioner has inherited the property by way of oral partition. He died leaving the Petitioner's father Periyakaruppathevar, who is the father of the Petitioner and he also died on 10.2.2005. Subsequently, the schedule property devolves on the Petitioner, his mother P.Ranchitham, Petitioner's younger sisters namely Manchula, wife of Rajendran and Parimala, wife of Sekar. As per the UDR Scheme, patta was also granted in the name of the Petitioner's grand-father to the above said property and one person by name, Gunasekaran, son of Velu who is residing at Pulvoikarai Village, Thiruchuli Taluk, Virudhunagar District had fraudulently obtained patta along with two others name, ly Ramakrishnan and Varadhraj and they in-turn sold the said property to one Creative Agro-tech Private Limited old Narimanpoint, Mumbai through sale deed, dated 24.5.2007 in Document No.1449 of 2007 of Thiruppuvanam Sub-Registrar Office, Sivagangai District. Challenging the said order, the Petitioner has filed a suit in O.S.No.128 of 2011, on the file of the District Munsif Court, Aruppukkottai and the said Court by order, dated 10.7.2015 decreed the suit in favour of the Petitioner declaring the sale deed as null and void. The Petitioner would further submit that in-spite of the said decree, the Petitioner has approached the respondents and the Registration authorities are not looking into the matter. The Petitioner would further submit that as per the said decree, the Petitioner approached the Village Administrative Officer and the Tahsildar concerned and joint patta was also issued in his name by order, dated 28.5.2016. The second respondent has received an application for clearing the encumbrance in the Encumbrance Certificate for the Petitioner's land situated at S.No.1/3A and S.No.9/2A so as to check whether there is any record made by the third respondent from the year 1992 to 2007. The search resulted in existence of sale transaction dated 25.5.2017 in Document No.1449 of 2007, which was already declared as null and void by the learned District Munsif, Aruppukkottai by his order, dated 10.7.2015. Thereafter the Petitioner has approached the third respondent to look into the fake transaction made and the same was not adhered to by him. Hence the Petitioner left with no other option, has approached this Court by filing the present Writ Petition for the relief stated supra.

4. The learned Government Advocate appearing for the respondents 1 and 2 filed a detailed counter stating that the Petitioner is seeking direction to the second respondent to remove the encumbrance made by way of registration in Document No.1449/2007 on the basis of the decree obtained by the Petitioner on 10.7.2015. The above said decree was received by the Petitioner on 7.8.2015 and thereafter he slept over the matter for one year



and seven months and made a representation only on 21.3.2017 and the same was not considered by the second respondent. It is to be noted that whether Section 23 and 25 of the Tamil Nadu Registration Act provides time for presenting the documents and the provisions contained in Sections 24, 25 and 26 of the above Act reads as under:

WEB COPY

'no document other than a Will shall be accepted for registration unless present for that purpose to the proper Officer within four months from the date of its execution;

provided that a copy of a decree or order may be presented within four months from the day on which the decree or order was made, or where it is appealable, within four months from the day on which it becomes final.

Provisions where delay in presentation is unavoidable:- (1) If, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made in (India) is not presented for registration till after the expiration of the time herein before prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times the amount of the proper registration fee, such document shall be accepted for registration.

(2) any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.'

5. Hence on the above provisions the Petitioner's case was not considered and the Petitioner has neither produced any decree copy or met the respondents in person and persuaded the matter further. The Petitioner's right is based on a decree passed by the competent Civil Court and he has to get the relief by approaching the concerned respondent. It is further submitted that now the second respondent is ready to register the decree passed by the competent Civil Court.

6. In view of the above, the Petitioner is directed to appear before the authorities within a period of one week from the date of receipt of a copy of this order by producing necessary original decree copy and judgement passed by the District Munsif Court, Aruppukkottai along with other relevant revenue records which the Petitioner relies upon and also the parent documents, if any, and on receipt of the same, the respondent concerned is directed to consider the same and pass orders within a period of three weeks thereon.



7. With the above directions, the Writ Petition stands disposed of. No costs.

WEB COPY

/True Copy/

Sd/

Assistant Registrar (Crl. Side)

Sub Assistant Registrar (CS-III)

To

1. The District Registrar,
Sivagangai District,
1A, Thirupathur Salai,
Sivagangai.
2. The Sub-Registrar,
Thiruppuvanam Sub-Registrar's Office,
Thiruppuvanam,
Sivagangai District.

+1 cc to Mr. N. Vijayarajan, Advocate, SR.No. 98401

+1 cc to Spl. Govt. Pleader, SR.No. 98446

vsn

SS/PM/SAR 3/20.12.2018/4P/5C

W.P (MD) No. 8684 of 2017
03.12.2018