

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 25.11.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P. NO. 16642 OF 2009

AND

W.M.P. NO. 1 OF 2009

Bhagwan Das Mangal

... Petitioner

- Vs -

1.The Sub Registrar (Registration)  
Office of Sub Registrar,  
Neelangarai, Chennai - 41.

2. Madusudan Futnani

3. M.F.Arul

4. Rajiv Mangal

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the cancellation deed dated 17.10.2002 as registered Document No. 3003 of 2002 on the file of the Sub Registrar Office, Neelangarai and quash the same and directing the first respondent to delete the entry in Book No. 2 page 1 to 3.

For Petitioner: Mr. P.B.Ramanujam

For Respondents: Mr. T.M.Pappiah, Spl. GP, for R-1

Mr.Venkatesh Mohanraj, for RR-2 & 3

Mr. Sudhir Kumar for R-4

O R D E R

The present petition has been filed to call for the records relating to the cancellation deed dated 17.10.2002, registered as Document No. 3003 of 2002 on the file of the Sub Registrar Office, Neelangarai and quash the same with a further direction to the 1<sup>st</sup> respondent to delete the entry in Book No. 2 page 1 to 3.

2. The case of the petitioner is that he has purchased a property from the 2<sup>nd</sup> respondent for valuable construction of Rs.1,40,000/- through a registered sale deed dated 28.04.1997. According to the petitioner, subsequent to the said purchase, he has been in possession of the property and he has also obtained patta on 26.06.2003. Whiles, after the grant of patta, he approached the Village Administrative Officer for paying kist. However, to his shock and surprise, he came to know that the 2<sup>nd</sup> respondent without the knowledge of the petitioner has unilaterally cancelled the sale deed dated 28.04.1997, executed in his favour. Aggrieved by the said unilateral cancellation, the present petition has been filed for the relief supra.

3. Learned counsel appearing for the petitioner submits that the same being a bilateral contract, if at all the said deed is to be cancelled, it should be by way of a bilateral cancellation, by both the parties and unilateral cancellation is impermissible. It is further submitted that the petitioner has also filed a suit in O.S. No. 194 of 2004 on the file of Sub Court, Chengalpattu for declaration that the unilateral cancellation deed dated 17.10.2002, executed by the 2<sup>nd</sup> respondent is sham and nominal and the suit has been transferred to the file of Sub Court, Tambaram and renumbered as O.S. No. 108 of 2009 and the same is pending trial.

4. The facts, as narrated by the petitioner above relating to the filing of the suit and its pendency are not disputed by the learned counsel for respondents. However, the only grievance expressed in the present case is that, though as against the above relief, suit in O.S. No.108 of 2009 is pending on the file of Sub Judge, Tambaram, and due to the post of Presiding Officer in the said court being vacant, the case is pending and, therefore, suitable direction is sought for to proceed with the trial in the above suit.

5. From the above submissions advanced by the learned counsel on either side, it is evident that the post of Sub Judge, Tambaram is vacant since long and as on date no Presiding Officer has been posted. In such circumstances, this Court directs the petitioner to file a petition before the Principal District Court, Chengalpet, seeking transfer of the suit to some other court. On the transfer of the suit being ordered, the concerned Court where the suit is transferred shall take up and dispose of the same within a period of six months from the date of transfer of the suit.

6. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

bkn/GLN

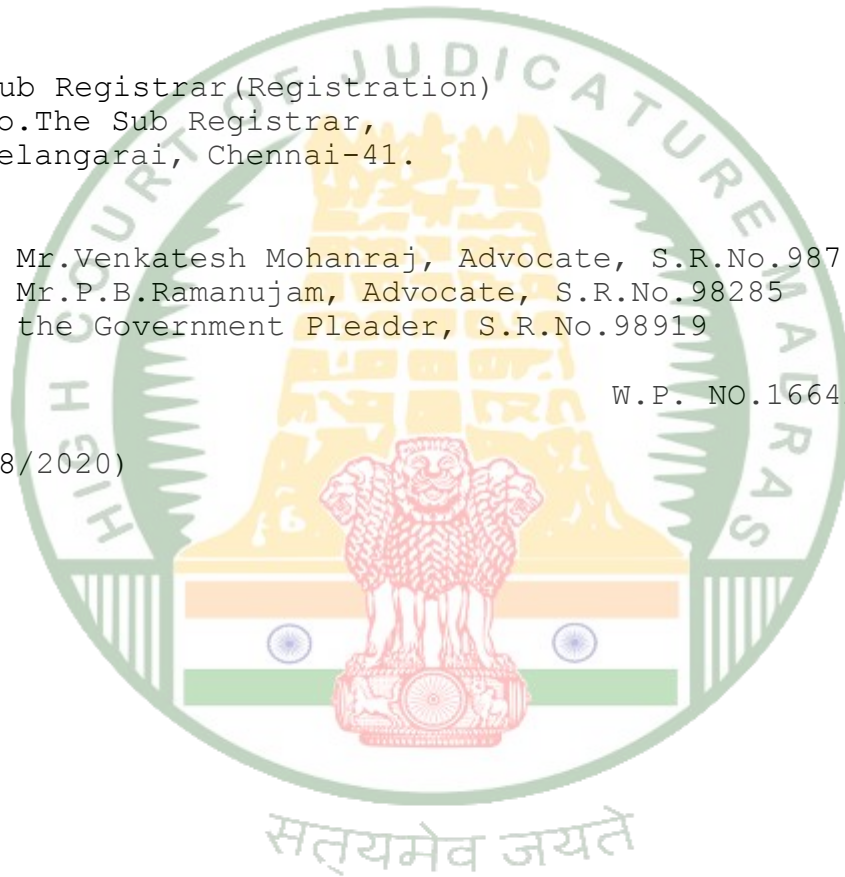
To

1.The Sub Registrar(Registration)  
O/o.The Sub Registrar,  
Neelangarai, Chennai-41.

+2cc to Mr.Venkatesh Mohanraj, Advocate, S.R.No.98702  
+1cc to Mr.P.B.Ramanujam, Advocate, S.R.No.98285  
+1cc to the Government Pleader, S.R.No.98919

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BR(CO)  
CB(07/08/2020)



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