

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.6292 of 2009
and
MP.No.2 of 2009

A.Kuppusamy

...Petitioner

Vs

1. The Special Commissioner
and Commissioner of Land Administration,
Land Administration,
Chepauk, Chennai 600 005.
2. Thiru Govindaraj

...Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records in respect of the impugned order D.Dis K4/RP4/07 (14434) 06, dated 08.12.08 passed by the 1st respondent and quash the same.

For Petitioner : Mr.Wesley Isaac

For Respondents : Mr.A.N.Thambidurai, Spl.G.P., for R1
Mr.A.R.Suresh, for R2

ORDER

Heard the learned counsels appearing on either side and perused the materials available on record.

2. This Writ Petition has been filed to issue a Writ of Certiorari to call for the records of the first respondent in D.Dis K4/RP4/07 (14434) 06, dated 08.12.08 and quash the same.

3. According to the petitioner, his maternal grand mother Ragava Ammal was the original owner of the land measuring an extent of 42 cents in Survey No.185/2A and she sold 5 cents in favour of one Kamala Ammal by a registered sale deed dated 04.10.1943. But in the sale deed, it was wrongly mentioned as 25

cents. It is further alleged that in the year 1982, the petitioner sold 20 cents for Kumaran lay out and the land in dispute has been shown as pathway in the approved lay out. However, suppressing the said fact, the said Kamala Ammal sold the property in favour of the second respondent.

4. The learned counsel for the petitioner would state that the Settlement Tahsildar, after verification, issued patta in favour of the purchasers in Kumaran lay out, but, suppressing the fact that the second respondent had obtained patta from the Tahsildar.

5. The learned counsel for the second respondent would state that the second respondent passed away in the year 2018, but no steps have been taken by the petitioner to bring his Legal Heirs. The learned counsel made submissions in support of the order impugned in this Writ Petition.

6. The learned Special Government Pleader appearing for the first respondent would submit that the petitioner has claimed right over the property on the basis of exchange of land, but he has not produced any registered document and if the petitioner is having any right over the property, it shall be established before the Civil Court.

7. In the case on hand, the petitioner claims right over the property through his grand mother Ragava Ammal. It is seen that the said Ragava Ammal sold 25 cents of land in Survey No.185/2A to Kamala Ammal by virtue of registered sale deed dated 04.10.1943. Though the petitioner claims that his grandmother sold only 5 cents of land in 185/2A and for the remaining 20 cents of land there was exchange of lands in S.No.183/1 and 184/1, but no documents have been produced to prove the same.

8. According to the learned counsel for the petitioner, the sale deed executed in favour of the second respondent on 17.01.1994 is a forged document, so he cannot claim any right through the said sale deed.

9. I am not able to agree with the submissions of the learned counsel for the petitioner as the disputed question of fact cannot be adjudicated in a Writ Petition filed invoking Article 226 of the Constitution of India. As observed by the

first respondent in the impugned order, the petitioner has not produced any registered document in support of his case. Hence, I find no ground warranting interference of this Court. In fine, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

pvs

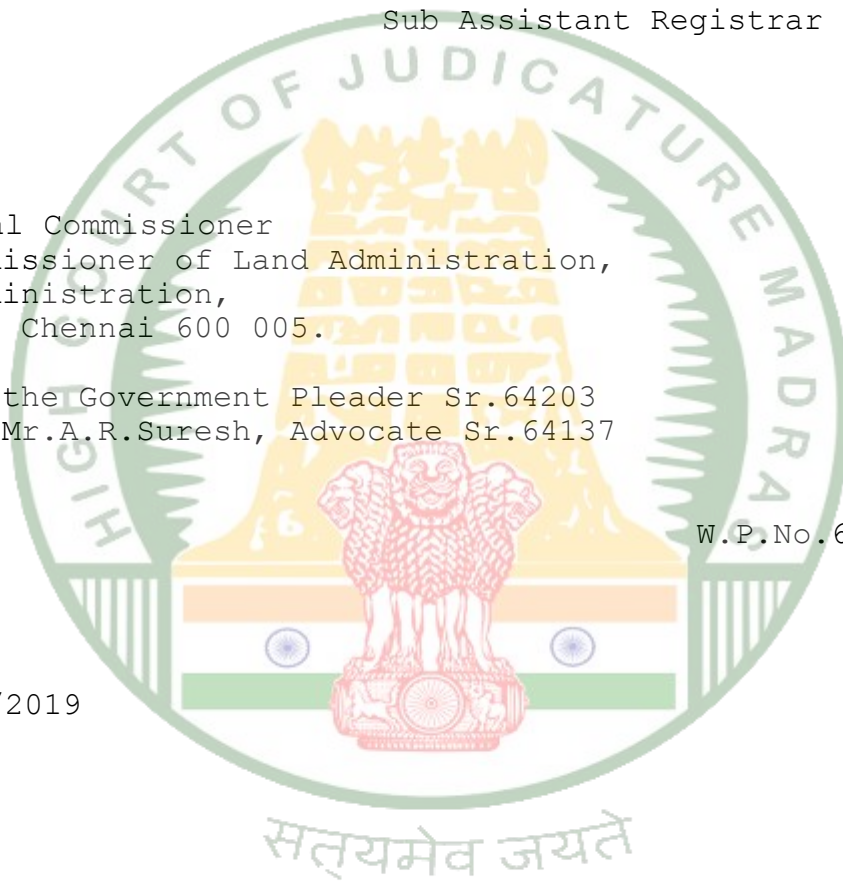
To

The Special Commissioner
and Commissioner of Land Administration,
Land Administration,
Chepauk, Chennai 600 005.

+1cc to the Government Pleader Sr.64203
+1cc to Mr.A.R.Suresh, Advocate Sr.64137

W.P.No.6292 of 2009

ca[co]
srg 23/09/2019



WEB COPY