

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.24002 of 2012
and M.P. Nos.1 & 2 of 2012

Padmavathy (deceased)

P-2 D.V.Ramasamy

P-3 R.Muthamil Selvakumar

P-4 R.Annadurai

P-5 R.Sumathi

P-6 R.Bharathiraja

P-7 R.Mala

.. Petitioners

P-2 to P-7 are substituted as Lrs of deceased P-1 Padmavathy (deceased) as per order dated 16.02.2017 by D.K.K.J. In M.P. No.1/2013 in W.P. No.24002 of 2012

-VS-

1.The Inspector General of Registration,
Madras 28.

2.The Sub Registrar,
Uraiyur, Tiruchirappalli.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified mandamus to call for the records on the file of the first respondent in proceedings No.Pa.Mu No.53724/P1/2010 dated 16.02.2012 confirming the order of the second respondent in Roc 113/2010 dated 10.03.2010 and quash the same as illegal, incompetent, irregular and without jurisdiction and further direct the second respondent to register and return the deed of

cancellation dated 18.02.2010 to the petitioner herein and for consequential orders.

For Petitioners : Mr.V.Lakshminarayanan

For Respondents : Mr.T.M.Pappiah,
Special Government Pleader

ORDER

The petitioners have filed the writ petition challenging the impugned proceedings No.Pa.Mu No.53724/P1/2010 dated 16.02.2012 confirming the order of the second respondent in Roc 113/2010 dated 10.03.2010.

2.Learned counsel appearing for the petitioners submitted that after filing the writ petition, the petitioner Padmavathy passed away and therefore, the legal heirs are brought on record by order dated 16.02.2017. Learned counsel appearing for the petitioners would submit that the deceased Padmavathy was the owner of the property measuring to an extent of 2400 sq.ft. in new Survey No.45/1A and Old Survey No.45/1, situated at Iris Garden, Iraitavaikkal, Uyaakondan Tirumalai, Tiruchy and after constructing a building thereon, she has been living along with his sons jointly. However, she bought the said property as a vacant plot from one Sivaprabhakar vide Sale Deed dated 26.04.1995, which was registered under Document No.1092 on the file of the Sub Registrar, Uraiyur. Subsequently, she has been

paying regularly the necessary taxes. While so, one R.Rajaram, with an intention to grab the property, forged the created documents. Due to the same, the petitioner moved before the Civil Court for orders and the same was dismissed. As against the same, an appeal in A.S. No.21 of 2010 was preferred, but the same was not prosecuted due to the settlement arrived at between the parties. Learned counsel appearing for the petitioners would further submit that earlier the said Rajaram had filed a suit suppressing the true facts in O.S. No.1382 of 2009 on the file of the District Munsif Court and obtained an exparte interim order in I.A. No.705 of 2009 against the deceased and her sons. Finally, the said Rajaram accepted to cancel the sale deed dated 04.09.2008 and in accordance with the agreement, he also withdrew his suit on 23.02.2010 and a deed of cancellation was presented for registration on 18.02.2010 by paying proper registration fee.

3. When the matter stands as above, the second respondent Sub Registrar has issued the impugned notice. When the deceased petitioner is not the beneficiary of the deed of cancellation, the impugned order ought not to have been issued against her without any notice calling upon her to give her explanation.

T.RAJA, J.
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4.It is seen from the records that the said Rajaram has accepted to cancel the sale deed dated 04.09.2008 and in accordance with the agreement, he also withdrew his suit on 23.02.2010 and a deed of cancellation was also presented for registration on 18.02.2010, but the same was not registered till now. Therefore, taking note of the fact that registration has not taken place, this Court, directs the Sub Registrar, Tiruchirappalli, the second respondent herein to hold a proper enquiry, after giving notice to both the petitioners and the said Rajaram and the same shall be completed within a period of three months.

5.With the above direction, the writ petition stands disposed of. Consequently, connected M.Ps are closed. No costs.

17.09.2019

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To

1.The Inspector General of Registration,
Madras 28.

2.The Sub Registrar,
Uraiyur, Tiruchirappalli.

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