

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.07.2019

CORAM:

THE HON'BLE MR. JUSTICE P.D.AUDIKESAVALU

W.P. No.10039 of 2019
and
W.M.P. No.10621 of 2019

R.Padamchand Jain

... Petitioner

-vs-

1.The District Registrar Chennai-North,
No.1, Moorthikal lane, 1st Lane Beach,
Chennai - 600 001.

2.The Sub-Registrar,
Arani Sub-Registration Office,
No.3, S.P. Koil Street,
Arani - 601 10, Ponneri Taluk,
Thiruvallur District.

3.Mr.Kothanda Naidu

4.Mr.Venkatesa Naidu

5.Sudhakar

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India, seeking for a Writ of Mandamus, directing the 2nd respondent not to admit and register any document of sale, gift, mortgage, exchange settlement or any kind of document/deed in respect of the property owned by the Petitioner, being agricultural punja lands comprised in Survey No.165/4A, measuring an extent of acre 1.16 cents (0.47.0 hectare), situated at No.92, Manjankaranai Village, Uthukkottai Taluk, Tiruvallur District without complying with the requirement under Section 5 and any other provisions of the Tamil Nadu Patta Pass Book Act, 1986.

For Petitioner : Mr. R.Munuswamy

For Respondents : Mr.T.M.Pappiah
Special Government Pleader for R1 and R2
Mr.P.Krishnan, for R3 to R5

O R D E R

Heard Mr. R. Munuswamy, Learned Counsel for the Petitioner, Mr. T.M. Pappiah, Learned Special Government Pleader for the First and Second Respondents and Mr. P. Krishnan, Learned Counsel for the Third to Fifth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who claims to be a owner of the property comprising of agricultural punja lands in Survey No.165/4A, measuring an extent of acre 1.16 cents (0.47.0 hectare), situated at No. 92, Manjankaranai Village, Uthukkottai Taluk, Tiruvallur District, has filed this Writ Petition to direct the Second Respondent not to register any documents by way of sale, gift, mortgage, exchange settlement or any other kind of document/deed in that respect of the property without complying the requirement under Section 5 and any other provisions of the Tamil Nadu Patta Pass Book Act, 1983. It is further contended by the Petitioner that he has sought for the aforesaid relief due to the fact the Third to Fifth Respondents claiming rival title to the same property are actively engaged in creating cloud to his title over the aforesaid property and that he has also instituted a suit in O.S.No.44 of 2018 before the District Munsif cum Judicial Magistrate Court at Uthukkottai for permanent injunction for protecting his possession in that regard. Reliance is placed by the Learned Counsel for the Petitioner on the decision of this Court in Rajambal -vs- Inspector General (Registration) [2012 (2) CTC 289] in support of his contention that registration of documents relating to agricultural land cannot be permitted under the provisions of the Registration Act, 1908, without production of pass book issued to the executant under the provisions of Tamil Nadu Patta Pass Book Act, 1983.

3. The Third to Fifth Respondents have filed counter affidavit contending that the Third Respondent has already executed a settlement deed dated 23.01.2019 in favour of the Fourth Respondent, who is his brother, which has been registered as Document No.1191 of 2019, dated 23.01.2019 by the Second Respondent and that the Writ Petition has been filed only thereafter on 26.03.2019. Learned Counsel for the Third to Fifth Respondents contends that since the Petitioner has already filed a suit in respect of same property, he cannot maintain the present Writ Petition by way of parallel proceedings.

4. Having regard to the rival submissions made on behalf of the Petitioner and the Third to Fifth Respondents viz-a-viz the admitted position that the Petitioner has already instituted the suit in O.S.No.44 of 2018 before the District Munsif cum Judicial Magistrate Court at Uthukkottai in respect of the same property, it would necessarily follow that in view of the doctrine of lis pendens as enshrined in Section 52 of the Transfer of Property Act, 1882, it

is incumbent upon the parties to the suit to obtain the prior permission for transferring or otherwise dealing with that property during its pendency, and as such, if the Third to Fifth Respondents makes any such application for transfer of property, it would be open to the Petitioner to object to the same by relying upon the provisions of the Tamil Nadu Patta Pass Book Act, 1983. Resultantly, there is no necessity to entertain this Writ Petition for the relief claimed by the Petitioner.

5. The Writ Petition is dismissed with the aforesaid observations. Consequently, connected Miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

rkp

To

1.The District Registrar Chennai-North,
No.1, Moorthikal lane, 1st Lane Beach,
Chennai - 600 001.

2.The Sub-Registrar,
Arani Sub-Registration Office,
No.3, S.P. Koil Street,
Arani - 601 10, Ponneri Taluk,
Thiruvallur District.

+1cc to Mr.P.Krishnan , Advocate SR.No. 64282
+1cc to Mr.R.Munusamy , Advocate SR.No. 64456
+1 cc to Government Pleader Sr.No. 64699

W.P. No.10039 of 2019

A.SK (29/11/2019)

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