

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2019

CORAM

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

W.P. No.21504 of 2019

R. Thirupathi

... Petitioner

Vs.

- 1.The State of Tamil Nadu
Rep. by its Secretary to Government,
Revenue and Disaster Management Department,
Fort St.George, Chennai.
- 2.The Inspector General of Registration,
O/o. The Inspector General of Registration,
No.100, Santhome High Road, Mylapore,
Chennai - 600 028.
- 3.The District Registrar,
O/o.The District Registrar,
J C K Nagar, Chengalpattu - 603 002.
- 4.The Sub Registrar,
O/o.The Sub Registrar,
29, South Mada Street,
Thiruporur - 603 110.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order vide proceedings No.521/2019 dated 06.06.2019 passed by the Third Respondent and to quash the same and consequently direct the Second to Fourth Respondents to remove the entry pertaining to the settlement deed vide Doc. No.12322/2012 dated 06.11.2012 duly registered on the file of the Third Respondent, from all the records maintained by the Second to Fourth Respondents herein.

For Petitioner : Mr.A.Abdul Rahman for
M/s.Nathan and Associates

For Respondents : Mr.J.Purushothaman,
Government Advocate for R1

Mr.T.M.Pappiah,
Special Government Pleader
for R2 to R4.

O R D E R

Heard Mr. A. Abdul Rahman, Learned Counsel for the Petitioner, Mr. J. Purushothaman, Learned Government Advocate appearing for the First Respondent and Mr. T.M. Pappiah, Learned Special Government Pleader appearing for the Second to Fourth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The chronological sequence of events leading to the filing of this Writ Petition are given below:-

- (i) The father of the Petitioner, viz., Ramakrishnan, who was the absolute owner of the vacant land comprised in Survey Nos. 250/17, 250/3B, 366/2, 231/1, 366/2 and 2/1, 67/12A, 6A, 67/12A9A admeasuring to an extent of acre 13.0225 cents, died on 26.08.1988.
- (ii) The mother of the Petitioner, viz., Navneedhammal, subsequently died on 01.06.2012.
- (iii) According to the Petitioner after the demise of his parents, the aforesaid property devolved upon him, his brother Venkatesan (who subsequently died) and his sisters, viz., E. Nagarathinam, K. Thilothammal, K. Rasu, V. Kanagasundaram and R. Anjali Devi.
- (iv) Thereafter, four of his Sisters, viz., K. Thilothammal, K. Rasu, V. Kanagasundaram and R. Anjali Devi, settled their respective shares in the aforesaid property in favour of their another sister, viz., E. Nagarathinam, by settlement deed dated 06.11.2012, which was registered as document No. 12322 of 2012 in the office of the Fourth Respondent.
- (v) The Petitioner had instituted suit in O.S. No. 54 of 2015 on the file of the Sub-Court, Chengalpet, against his sisters, and wife and children of the deceased brother Venkatesan, in which compromise was entered between the parties that the settlement deed dated 06.11.2012 registered as document No. 12322 of 2012 executed by K.Thilothammal, K.Rasu, V. Kanagasundaram and R. Anjali Devi in favour of E. Nagarathinam is null and void, and has been recorded in the Lok Adalat held on 21.04.2017.
- (vi) The Petitioner had made a representation dated 20.11.2018 to the Second to Fourth Respondents requesting to remove the entries relating to the settlement deed dated 06.11.2012, which has been declared as null and void, in the aforesaid suit.
- (vii) In W.P. No. 2206 of 2019 filed by the Petitioner, this Court by order dated 31.01.2019 without expressing any opinion on merits of the representation of the Petitioner, directed the Fourth Respondent to dispose the said representation of the Petitioner and pass appropriate orders on merits and in accordance with law.
- (viii) In pursuance thereof, the Third Respondent by proceedings No. 521/2019 dated 06.06.2019 after referring to Rule 116-

A of the Registration Rules, and the decision of the Hon'ble Supreme Court of India in Satya Pal Anand -vs- State of Madhya Pradesh [(2016) 10 SCC 767], held that in the absence of the any registered cancellation/revocation deed, the request of the Petitioner to remove the entry relating to earlier settlement deed No. 12322 of 2012 dated 06.11.2012 from Index-II, cannot be complied with.

Aggrieved thereby, the Writ Petition has been challenging the order passed by the Third Respondent and direct the Second to Fourth Respondents to remove the entry pertaining to the settlement deed dated 06.11.2012 registered as No. 12322 of 2012 in the office of the Fourth Respondent, from all the records maintained by the Second to Fourth Respondents.

3. Before proceeding further, it would be necessary to recapitulate here that Section 21(1) of the Legal Services Authorities Act, 1987, states that every award of the Lok Adalat shall be deemed to be a decree of a Civil Court, which would mean that the award dated 21.04.2017 passed by the Lok Adalat in this case, has to be treated as a decree in O.S. No. 54 of 2015 passed by the Sub-court, Chengalpet. On a perusal of the order impugned in the Writ Petition, it is evident that the Third Respondent has proceeded on an erroneous premise as if Rule 116-A of the Registration Rules is not applicable when there has been revocation/cancellation/rectification/modification of a previously registered document by a Court. In this context, it would be necessary to extract Rule 116-A of the Registration Rules, which reads as follows:-

"116-A. On the registration of a document, which revokes, or cancels or rectified an error in, or modifies the terms of, a document previously registered in the same class of register book or of a return of lands acquired under the Land Acquisition Act or of a document received and filed under Section 89 of the Act, vide rule 11 supra or on the receipt of a communication from a Revenue Officer or from a Court which intimates a similar revocation, cancellation, rectification or modification, a note shall be entered at foot of the entry of the latter document or communication as under:-

"This document/communication revokes (cancels, rectifies or modifies) the document No..... 20..... of copied/filed/the return filed at pages Volume of book/File Book/File Book No.1".

and at foot of the previous entry of the document previously registered or filed a note shall be entered as shown below:-

"This document/return has been revoked (cancelled, rectified or modified) by document No..... 20..... of copied/document filed/the return filed at pages volume of book/File

Book/File Book No. 1".

(b) When the revocation, cancellation, rectification or modification is of a document relating to immovable property, a corresponding note shall also be entered in Index No. II and when it relates to the rectification of any particulars entered in Index I, II, III or IV, a note of rectification shall also be entered in the respective index against the particulars item rectified." (emphasis supplied on the underlining)

It would also be relevant to refer to Section 31 of the Specific Relief Act, 1963, which reads as follows:-

"31. When cancellation may be ordered:-

(1) Any person against whom a written instrument is void or voidable, and who has reasonable apprehension that such instrument, if left outstanding may cause him serious injury, may sue to have it adjudged void or voidable; and the court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

(2) If the instrument has been registered under the Indian Registration Act, 1908 (16 of 1908), the court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation." (emphasis supplied on the underlining)

On a bare reading of the aforesaid statutory provisions, it is incumbent upon the Fourth Respondent to make endorsement of cancellation on the copy of the instrument contained in the books as well as in the entries in the registers maintained in that regard by the Registration Department of the fact of its cancellation by the decree on receiving such communication from the Civil Court. Insofar as the decision of the Hon'ble Supreme Court of India in Satya Pal Anand -vs- State of Madhya Pradesh [(2016) 10 SCC 767], is concerned, on its perusal and in particular, the paragraphs referred in the order impugned in the Writ Petition, it must be noticed that the same is related to the question as to whether the Registering Authority has power to cancel the registration of a registered document, and it has nothing to do with making entries in the books maintained by the Registration Department on the cancellation of a registered document by a decree of the Civil Court, as in this case. As such, the impugned order No. 521/2019 dated 06.06.2019 passed by the Third Respondent cannot be sustained, and the same is set aside.

4. At the same time, it must be pointed out that the action required to be taken by the Fourth Respondent in terms of Section 31(2) of the Specific Relief Act, 1963, read with Rule

116-A of the Registration Rules, would arise only after receiving a communication in that regard from the Court, which passed that decree, as reflected in those statutory provisions. As such, it is left open to the Petitioner to make necessary application before the Civil Court which passed the decree seeking direction to send a copy of the Judgment and Decree to the Fourth Respondent for taking necessary action in accordance with the provisions of Section 31(2) of the Specific Relief Act, 1963, read with Rule 116-A of the Registration Rules. If such application is made, the Civil Court shall pass appropriate orders in that regard expeditiously in accordance with law.

5. The Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rkp
To

- 1.The Secretary to Government,
The State of Tamil Nadu
Revenue and Disaster Management Department,
Fort St.George, Chennai.
- 2.The Inspector General of Registration,
O/o. The Inspector General of Registration,
No.100, Santhome High Road, Mylapore,
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- 3.The District Registrar,
O/o.The District Registrar,
J C K Nagar, Chengalpattu - 603 002.
- 4.The Sub Registrar,
O/o.The Sub Registrar,
29, South Mada Street,
Thiruporur - 603 110.

+1cc to M/s.Nathan and Associates, Advocate SR.74294
+1cc to the Government Pleader SR.74647,75601

W.P. No.21504 of 2019

BS(CO)
CB(12/11/2019)