

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2019

CORAM

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

W.P. No. 21510 of 2019

A. Siriyapushpam

... Petitioner

-vs-

1. The Inspector General of Registration,
Santhome High Road, Mylapore,
Chennai-600 028.

2. The Sub-Registrar of Assurances,
Padappai,
Kanchipuram District - 602 301.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondents to register the Judgment and decree of the Learned Sub-ordinate Court, Kanchipuram dated 07.08.2017, made in O.S. No. 301 of 2016 and delete therein the entries pertaining to the Documents namely (1) Cancellation deed dated 19.02.2014 and Registered as Document No. 1410 of 2014 in the office of the Sub-Registrar, Padappai (2) Deed of Sale date 19.02.2014 and Registered as Document No. 1447 of 2014, in the office of the Sub-Registrar, Padappai and (3) Settlement dated 28.07.2014, Registered as Document No. 6051 of 2014 at the office of the Sub-Registrar, Padappai all on the file of the Second Respondent, declared Null and Void from the Records of the Second Respondent pursuant to the representation of the Petitioner dated 12.12.2018 and 26.04.2019.

For Petitioner : Mr. K. Ramani

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

O R D E R

Heard Mr. K. Ramani, Learned Counsel for the Petitioner and Mr. T.M. Pappiah, Learned Special Government Pleader appearing for the 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., B. Victor, who was the owner of the vacant land measuring to an extent of 90 cents comprised in S. No. 60/2 of No. 95, Naduveerapatu Village, Sriperambadur Taluk, Kanchipuram District, had executed a settlement deed dated 07.02.2014 in favour of the Petitioner, which was registered as document No. 983 of 2014 in the office of the Second Respondent and the Petitioner claims to have been in absolute possession and enjoyment of that property thereafter.
- (ii) The said B. Victor by a deed of cancellation dated 19.02.2014 had unilaterally revoked the aforesaid settlement deed dated 07.02.2014 made in favour of the Petitioner, which was registered as document No. 1410 of 2014 in the office of the Second Respondent, and had executed a deed of sale dated 19.02.2014 conveying that property in favour of the mother of the Petitioner, viz., V. Anthoniamma, which was registered as document No. 1447 of 2014 in the office of the Second Respondent.
- (iii) The said Anthoniamma had, in turn, executed a settlement deed dated 28.07.2014 in favour of the brother of the Petitioner, viz., V. Joseph, which was registered as document No. 6051 of 2014 in the office of the Second Respondent.
- (iv) According to the Petitioner, she did not have any knowledge of the aforesaid documents executed by her parents on 19.02.2014 and 28.07.2014 till the death of her mother and it was only when the said V. Joseph attempted to trespass into the property, she had found out about the aforesaid transactions and consequential interpolations made in the revenue records depriving her title to the property.
- (v) The Petitioner had instituted the suit in O.S. No. 301 of 2016 on the file of the Sub-Court, Kanchipuram, and in that suit, Judgment and Decree was passed on 07.08.2017 declaring that the aforesaid documents dated 19.02.2014 and 28.07.2014 were null and void and the Defendants in that suit, who are the said B. Victor and V. Joseph, have been restrained by perpetual injunction from alienating or encumbering the property in any manner.
- (vi) The Petitioner had made a representation dated 12.12.2018 to the Respondents requesting to delete the entries relating to the aforesaid documents which have been declared as null and void in the aforesaid suit, but the Second Respondent by a refusal check slip dated 26.04.2019 informed the Petitioner that it was not possible to register the Judgment and Decree dated 07.08.2017 in O.S.

No. 301 of 2016 passed by the Sub-Court, Kanchipuram as it was beyond the aggregate time limit of eight months prescribed in Sections 23 and 25 of the Registration Act, 1908.

Aggrieved thereby, the Petitioner has filed this Writ Petition for a direction to the Respondents to register the Judgment and Decree dated 07.08.2017 in O.S. No. 301 of 2016 passed by the Sub-Court, Kanchipuram, and delete the entries pertaining to the documents, viz.,

- (i) cancellation deed dated 19.02.2014 registered as document No. 1410 of 2014 in the office of the Second Respondent;
- (ii) deed of Sale dated 19.02.2014 registered as document No. 1447 of 2014, in the office of the Second Respondent; and
- (iii) settlement deed dated 28.07.2014 registered as document No. 6051 of 2014 in the office of the Second Respondent

declared as null and void, from the records of the Second Respondent pursuant to the representations dated 12.12.2018 and 26.04.2019 made by the Petitioner.

3. Though the Petitioner has sought for relief for registering the Judgment and Decree in the aforesaid suit, Learned Counsel for the Petitioner submits that the Petitioner would be satisfied if the Second Respondent makes necessary entries of endorsements relating to the transactions, which have been declared as null and void, in the books maintained under the provisions of the Registration Act, 1908, in terms of Section 31(2) of the Specific Relief Act, 1963, read with Rule 116-A of the Registration Rules.

4. Before proceeding further in this regard, it would be necessary to extract 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)

Further, Rule 116-A of the Registration Rules, 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/returned 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)

On a bare reading of the aforesaid statutory provisions, it is incumbent upon the Registering Authority to make endorsement of cancellation on the copy of those instruments contained in the books as well as in the other registers maintained in that regard by the Registration Department of the fact of the cancellation by the decree on receiving such communication from the Court concerned. Such consequential action required to be taken by the Registering Authority would not amount to registration of decree passed by the Court so as to attract the time period of limitation prescribed in Sections 23 and 25 of the Registration Act, 1908.

5. At the same time, it must be pointed out that the action required to be taken by the Registering Authority 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 Second 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.

6. The Writ Petition is disposed on the aforesaid terms. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Inspector General of Registration,
Santhome High Road, Mylapore,
Chennai-600 028.
2. The Sub-Registrar of Assurances,
Padappai,
Kanchipuram District - 602 301.

+1cc to Mr.K.Ramani, Advocate Sr.74337

W.P. No. 21510 of 2019

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srg 12/11/2019