

COMP.A.Nos.357 & 358 of 2019
in
C.P.No.130 of 1999

N.SATHISH KUMAR,J.

These applications are filed (i) to cancel the attachment order in C.A.No.987/2001 in C.P.No.130 of 1999 dated 05.09.2001 in respect of agricultural lands belonging to the applicants to an extent of 38 cents comprised in Survey No.113/4 situated at 121, Podavur village, Sriperumbudur Taluk, Kancheepuram District in Comp.A.No.357/2019 and (ii) to direct the Sub-Registrar, Sriperumbudur and the Sub-Registrar Sunguvarchatram to remove the agricultural lands belonging to applicants to an extent of 38 cents comprised in Survey No.113/4, situated at 121 Podavur Village, Sriperumbudur Taluk, Kancheepuram District, from the purview of attachment from the Encumbrance Register.

2. It is the case of the applicants that the above extent was originally purchased by one Venkatesa Chettiar, the grand father of the first applicant in the year 1942, by registered sale deed bearing Document No.119 of 1942. Since purchase, property was in continuous possession. The said Venkatesa Chettiar died leaving behind his only son V.Krishnamoorthy as legal heir. The said

Krishnamoorthy was enjoying the property till his death. Thereafter, the applicants are in possession of the property and they are the legal heirs of the said Krishnamoorthy.

3. It is the case that the subject property was ordered to be attached in Company Application No.987/2001 in C.P.No.130/1999, on the basis of the report given by the Administrator. In a nut shell, it is the contention of the applicants that at no point of time, they parted with the possession, nor did they execute any General Power of Attorney to any one.

4. The learned counsel appearing for the applicants have placed all the original documents before this Court.

5. Heard the learned counsel for the applicants as well as the learned Official Liquidator in this regard.

6. By order dated 05.09.2001, this Court in C.A.No.987/2001 in C.P.No.130/1999 directed the Inspector General of Registration to issue a circular to all the Registrar and Sub Registrars of the Registration Department, not to register any sale

in respect of lands that have been sold to Anubhav Group of Companies either through sale deeds or through General Power of Attorney deeds without permission of this Court. In the same order, a direction was also issued to the Administrator to handover the particulars of the lands to the Inspector General of Registration for issuing a suitable general circular to the Registrars and Sub Registrars of the Registration Department.

7. Based on the report and the particulars given by the Administrator in respect of various Survey numbers, the concerned Sub Registrars attached the properties as per the direction of this Court. The property which is the subject matter of property, this application is admittedly situated in Podavur Village, Sriperumbudur Taluk.

8. To analyse the contention of the applicants, I have perused the entire documents including the original title deed in the name of Venkatesa Chettiar who purchased the property in the year 1942 and legal heir certificate. The same clearly indicates that he died leaving behind his only son Krishnamoorthy. The patta pass book issued by the revenue authorities all along stood in the name

of said Krishnamoorthy and encumbrance certificate from the year 1940 produced before this Court clearly shows that there are no entries with regard to any encumbrance. In fact the property is enjoyed by his successors.

9. However, it appears from the report filed by the Administrator in respect of the survey numbers in the report that the General Power of Attorney has been executed by one Munusamy Chettiar & others in favour of Natesan for an extent of 74 cents. Based on that the above, survey numbers has been attached.

10. On a perusal of the documents, it makes it clear that originally, at the time of purchase of the property in the year 1942, Bimash Numbers 873, 874 and 875 and extent were given. Subsequently, during the settlement order in the year 1960, in the above Bimash Numbers have been given survey numbers and this subject property has been assigned as Survey No.113/4. Original settlement order is also perused.

11. It is also noted that in the entire Survey No.113/4, 38 cents alone is available which is the subject matter of purchase vide

document bearing number 119/1942. Therefore, the report of the Administrator that there is an extent of 74 cents in Survey No.113/4 is highly doubtful. At any event, the General Power of Attorney referred in this report said to have been executed by unconnected persons, the documents produced before this Court clearly shows that Venkatesa Chettiar had only one legal heir Krishnamoorthy. The said Krishnamoorthy died leaving behind the applicants as legal heirs. Legal heir certificate also filed to that effect. Even assuming that there is General Power of Attorney executed by some other person who are unconnected with the title to the property, the same will not bind the applicants herein.

12. From the above documents, this Court is of the view that attachment passed by the Registrar in respect of 38 cents in Survey No.113/4 particularly in the possession of the applicants has to be raised.

13. Accordingly, the order of attachment in respect of 38 cents in Survey No.113/4 is alone cancelled and Sub Registrar Sunguvarchatram or Sriperumbudur as the case may be directed to make necessary entries to raise attachment in respect of Survey

No.113/4 only for the extent of 38 cents which is situated in Podavur Village. Accordingly, these applications are ordered.

14. After perusing the original records, the originals are handed over to the applicants as copies are already available in the typed set.

18.11.2019

**Copy to
Sub Registrar**

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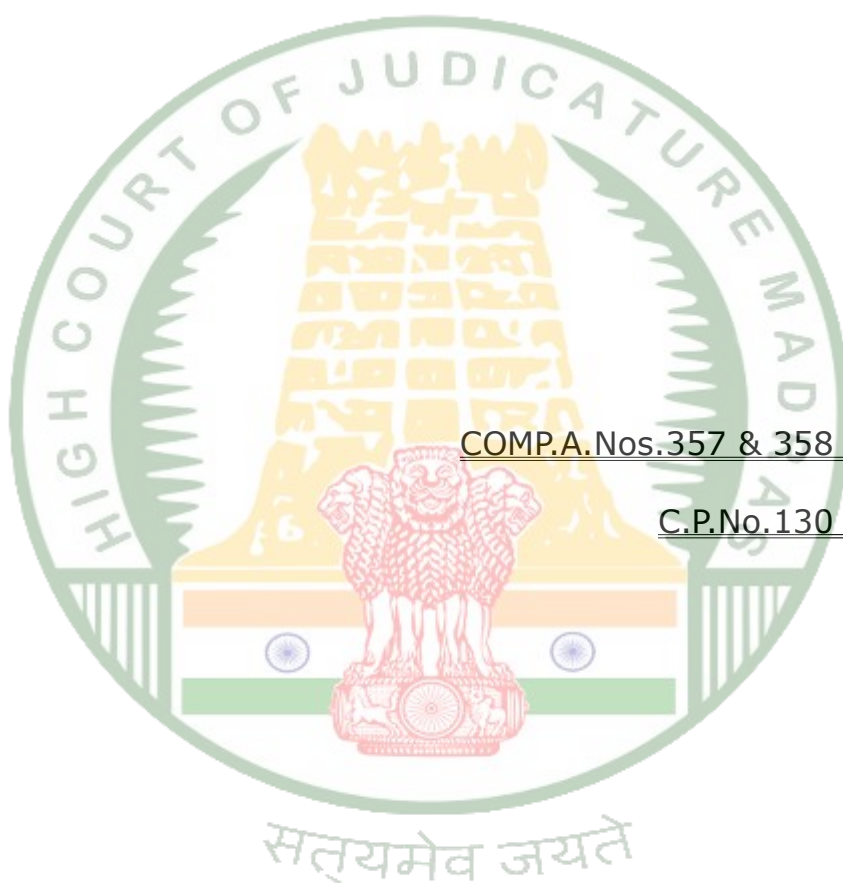


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