

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2019

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.NO.5346 OF 2017

AND

W.M.P.NO.5678 OF 2017

R.Prakash

...Petitioner

Vs.

The Joint II Sub Registrar,
The Sub Registrar Office,
Saidapet, Chennai - 600 015.

... Respondent

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 order Na.Ka.532/2016 dated 30.12.2016 of the respondent on the file of the respondent and to quash the same and direct the respondent number the above Pending Doc.No.45/2014 on the file of the respondent and release the same.

For Petitioner : Mr.B.Rabu Manohar

For Respondent : Mr.P.P.Purushothaman
Government Advocate

O R D E R

Heard Mr.B.Rabu Manohar, learned counsel for the petitioner and Mr.P.P.Purushothaman, learned Government Advocate for the respondent.

2.This writ petition has been filed to quash the proceedings of the respondent dated 30.12.2016 by which the respondent had refused to register the sale deed presented by the petitioner on the ground that a rectification deed has to be done in respect of the Deed of Settlement dated 18.02.2010 executed by one RadhaBai in favour of her son Veeraraghavan and her daughter Tharabai. The objection was at the instance of one B.Chandrasekaran, stating that the Settlement Deed is unsustainable. The said B.Chandrasekaran purchased the property through the other son of Tmt.Radhabai. He had initiated two

civil proceedings. First one in O.S.No.447 of 2013 on the file of the City Civil Court, Chennai, wherein he prayed for a decree of permanent injunction in respect of the very same property and for a mandatory injunction to demolish the obstruction alleged to have been put up by the petitioner's vendor, i.e. Tharabai and two others. The suit after contest was dismissed by judgment dated 28.02.2014. The objector B.Chandrasekaran did not file any appeal and the judgment and decree became final. Subsequently, he filed O.S.No.1471 of 2014 to declare the Settlement Deed executed by Tmt.Radhabai in favour of the petitioner's vendors as null and void and for a consequential permanent injunction from any manner alienating or encumbering the 'B' Schedule property therein which according to him was earmarked as common passage. In the said suit, the petitioner's vendors filed I.A.No.10527 of 2014 under Order VII Rule 1 of CPC to reject the plaint. The said petition was allowed by order dated 08.01.2015 and consequently, the plaint stood rejected. The said civil proceedings also attained finality. Thereafter, the objection had been made for registration of the document on 21.01.2013. Since no action was initiated by the respondent, the petitioner approached this Court and filed W.P.No.29855 of 2015 which was disposed by order dated 29.03.2016 by directing the petitioner to submit a fresh representation and the respondent herein was directed to decide the issue. Accordingly, the respondent has passed the impugned order.

3.From the above facts, it is clear that the civil proceedings commenced by the said B.Chandrasekaran had concluded and both the judgments/orders are against him and thereafter once over again the same objection cannot be raised by the said B.Chandrasekaran before the respondent and if allowed to be done, it would amount to clear abuse of process of the entire system. Therefore, the reason assigned by the respondent for refusing to register the document is untenable.

4.In the result, the writ petition is allowed and the impugned order is set aside and the respondent is directed to register and release the document to the petitioner within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

cse

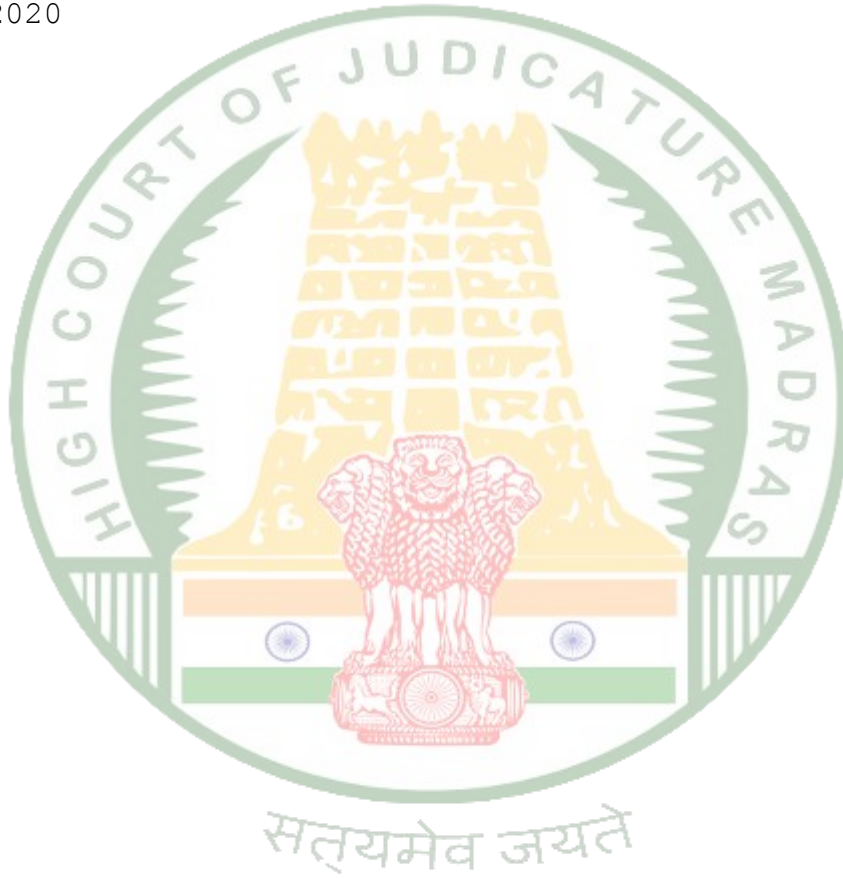
To

The Joint II Sub Registrar,
The Sub Registrar Office,
Saidapet, Chennai - 600 015.

+1cc to Mr.R.Rajesh Vivekananthan, Advocate, S.R.No.100341

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RSV(CO)
CS/10/01/2020



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