

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2019

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.11939 of 2017

S.G.Mohanakrishnan

... Petitioner

Vs

1.The District Registrar,
Office of the District Registrar,
Chennai South,
Chennai - 15.

2.The Sub-Registrar of Tambaram,
Office of the Sub-Registrar,
Tambaram.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the second respondent to remove the encumbrance entry of the decree dated 30.04.2015 passed in O.S.No.549/2014 on the file of the 5th Additional District cum Sessions Judge, Coimbatore, and further direct the first respondent to consider his complaint dated 13.02.2017 and to conduct an enquiry and dispose of the same in accordance with law within a time frame.

For Petitioner : Mr.P.Raja

For Respondents : Mr.P.P.Purushothaman, GA

ORDER

The petitioner has filed this writ petition seeking a direction to the second respondent / Sub Registrar, Tambaram, to remove the entry of the decree dated 30.04.2015 passed in O.S.No.549 of 2014 on the file of the 5th Additional District cum Sessions Judge, Coimbatore, made in the Encumbrance Certificate, and further direct the first respondent / District Registrar, Chennai South, Chennai, to consider his complaint dated 13.02.2017 and conduct an enquiry and dispose of the same in accordance with law.

2. The petitioner, claiming to be the owner of the agricultural land to an extent of Acres 0.35 cents in S.No.382/1A(part) in Tambaram, Kanchipuram District, having

purchased the same from one N.Balagurumurthi Chettiar under a sale deed dated 26.08.1988 and registered as Document No.418/1989 (Book No.1, Vol.1569, pages from 329 to 332) on the file of the Sub-Registrar, Tambaram, had applied for the encumbrance certificate in respect of the above said land and he noticed an endorsement pertaining to the above said document as stated below:-

"Note: As per the Decree dated 30.04.2015 passed in O.S.No.549/2014 on the file of the 5th Additional District -cum- Sessions Judge, Coimbatore, the above sale deed is set aside. Hence, this document is not valid."

Immediately thereafter, the petitioner approached the office of the 5th Additional District-cum-Sessions Judge, Coimbatore, through his counsel, and found that there was an vexatious suit filed fraudulently by one Mr.G.Ramesh Babu through his Power Agent Mr.D.Ramadas, against the petitioner with respect to the same property seeking for a relief of declaration to declare the Document No.418/1989, dated 26.08.1988, as null and void. Finally, the said Mr.G.Ramesh Babu obtained an exparte decree on 30.04.2015 against the petitioner and also made the first respondent to register the decree in the registers. After coming to know the exparte decree dated 30.04.2015, the petitioner had filed an application in I.A.No.631 of 2015 in O.S..No.549 of 2014 seeking to set aside the said exparte decree dated 30.04.2015 and after contest, the said application was allowed by an order dated 18.04.2016 on the file of the 5th Additional District-cum-Sessions Judge, Coimbatore, setting aside said exparte decree. Subsequently, the petitioner approached the second respondent/Sub Registrar, Tambaram, with a petition, to cancel the said endorsement made in the encumbrance certificate.

3. Since the petitioner has been put to grave prejudice in view of the fraudulent act of Mr.G.Ramesh Babu through his Power Agent Mr.D.Ramadass, he has made a representation dated 13.02.2017 to the first respondent to conduct an enquiry. But, the said representation, till date, has not been considered by the respondents.

4. It is also the further claim of the petitioner that when the petitioner is the owner of the property by virtue of a sale deed dated 26.08.1988 bearing Document No.418/1989 on the file of the Sub-Registrar, Tambaram, one Mr.G.Ramesh Babu, in collusion with the staffs working in the office of the Sub Registrar, Pallavaram, has created invalid encumbrance certificate. He has also relied on the Encumbrance Certificate

dated 07.09.2015 issued by the office of the Sub-Registrar, Pallavaram. Relevant portion of the same is extracted below:-

Sl .N o.	Description of Prop.	DOE & DOR	Nature & Value	Name of Executants/Claim ants	Vol No./P. No.	D.No. /Yr
2	S.F.No.382 /1 Tambaram Village	19/11/1987 19/11/1987	Conveyance Metro/UA	(E) Balagurumurthi N (C) Ramesh Babu G	1244 185	3801 1987

5. Again, he has referred to an another Certificate of Encumbrance on Property dated 03.09.2015 issued by the office of the Sub-Registrar, Pallavaram, wherein it is shown as stated below:-

Sl .N o.	Description of Prop.	DOE & DOR	Nature & Value	Name of Executants/Claim ants	Vol No./P. No.	D.No. /Yr
1	S.F.No.530 /5	19/11/1987 23/11/1987	Agreement	(E) Muthulakshmi Ammal (E) Udhayakumar (C) Same as Executant	1244 185	3801 1987

A bare perusal of the above said Encumbrance Certificates would depict that for document No.3801/1987, they have mentioned different names of the parties as well as different survey numbers and therefore, without the connivance of the staffs working in the offices of the Sub Registrar, Pallavaram and Tambaram, such contra entry would not have taken place.

6. Learned Government Advocate for the respondents also fairly submitted that the contra entries made in the above said encumbrance certificates issued by the office of the Sub Registrar, Pallavaram, needs proper investigation. I also agree with this submission.

7. Recording the above said submission, this Court hereby directs the first respondent to consider the claim of the petitioner and conduct an enquiry after issuing notice to all the aggrieved parties, including the staffs concerned, and pass orders in accordance with law, within a period of three months from the date of receipt of a copy of this order. On completion of the enquiry, if the first respondent comes to the conclusion that the staffs working in the Offices of the Sub-Registrar,

Pallavaram and Tambaram, are found responsible for fabrication of such documents, he shall recommend the concerned authority to initiate departmental proceedings against the persons responsible for such issues. With this direction, the writ petition is disposed of. No Costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The District Registrar,
Office of the District Registrar,
Chennai South,
Chennai - 15.

2.The Sub-Registrar of Tambaram,
Office of the Sub-Registrar,
Tambaram.

+1cc to M/s.P.Raja, Advocate Sr.98690

+1cc to the Government Pleader Sr.98938

W.P.No.11939 of 2017

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srg 17/12/2019

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