



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P(MD)No.18992 of 2019

N.Murugan

... Petitioner

vs.

1.The District Registrar,
Palani,
Dindigul District.

2.The Sub Registrar,
Vadamadurai,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the second respondent in Na.Ka.No.277/2019, dated 27.08.2019 and quash the same as illegal and subsequently direct the respondents to remove the entry of attachment No.18/2015, dated 29.06.2015 from the records available in the office of the second respondent.

For Petitioner : Mr.P.Manikandan

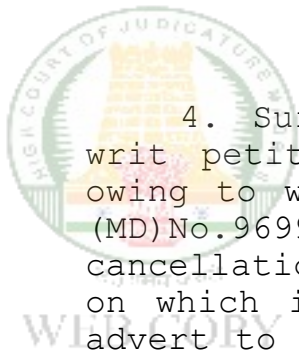
For Respondents : Mr.V.Anand
Government Advocate

ORDER

Mr.P.Manikandan, learned counsel on record for writ petitioner and Mr.V.Anand, learned Government Advocate, on behalf of both respondents are before this Court.

2. With consent of learned counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

3. Subject matter of instant writ petition is immovable property in the form of lands comprised in Survey Nos.1081/1, 1081/2, 1081/3, 1081/4, 1082/1, 1082/2, 1082/3, 1082/4, 1082/5, 1083/2, 1084/2, 1084/3, 1085/2, 1105/2, 1105/2B, 1105/2C, 1105/5, 1105/5A, 1106/1, 1106/2, Vadamadurai Village, which this Court is informed is situate within the jurisdiction of the second respondent. This property shall hereinafter be referred to as 'said lands' for the sake of brevity, clarity and convenience.



4. Suffice to say that there were some disputes between the writ petitioner and his mother one Vijaya regarding said lands, owing to which, a writ petition was filed in this Court being W.P (MD)No.9699 of 2015. To be noted this writ petition pertains to cancellation of a settlement deed. Considering the nature of prayer on which instant writ petition now turns, it is not necessary to advert to factual matrix in great detail. There is no disputation or disagreement before this Court today between learned Counsel for the writ petitioner and State Counsel that the aforementioned writ petition being W.P.(MD)No.9699 of 2015 was dismissed as withdrawn on 30.07.2019. To be noted second respondent in the instant writ petition is the first respondent in said writ petition viz., W.P. (MD)No.9699 of 2015 and the second respondent herein (first respondent in the withdrawn dismissed writ petition) has been represented by the State Counsel. Therefore, the second respondent has knowledge about withdrawal of the aforesaid writ petition.

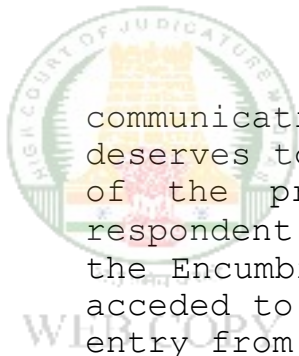
5. In the aforesaid backdrop, it is the case of the writ petitioner that the second respondent is not removing mention/entry about the withdrawn writ petition in the Encumbrance Certificate. To be noted the mention about the withdrawn writ petition in the Encumbrance Certificate reference to the same as 'ஐந்தி ஆணை'.

6. Owing to the aforesaid scenario, the writ petitioner sent a representation dated 27.08.2019 to the second respondent being representation dated 26.08.2019 with a request to delete the aforesaid entry in the Encumbrance Certificate. To this representation, the second respondent responded vide a communication dated 27.08.2019 bearing reference Na.Ka.No.277/2019 (hereinafter referred to as 'impugned communication' for brevity). Vide impugned communication, second respondent has submitted that a specific order is required from the Court for deleting the said entry. There is also a mention that the writ petition that was dismissed as withdrawn, pursuant to a compromise arrived at between the petitioner and his mother. It is not necessary to advert to these facts as the earlier writ petition has been dismissed as withdrawn. There is no disputation or disagreement about this factual position/obtaining position and that the second respondent is the first respondent in the earlier writ petition.

7. Under these circumstances, this Court is left with the considered view that there is no impediment for the second respondent to remove the aforesaid entry in the Encumbrance Certificate pertaining to the earlier withdrawn writ petition.

8. Learned State Counsel submitted that the second respondent has sought for a specific order only as a matter of abundant caution.

9. In this backdrop, owing to all that have been set out thus far, this Court is left with the considered view that the impugned



communication (referred to as impugned order in the writ petition) deserves to be set aside and the same is set aside. The second limb of the prayer in the writ petition is to direct the second respondent to remove the aforesaid entry which reads 'ஐந்தி ஆணை' in the Encumbrance Certificate qua the said land. This prayer is also acceded to and the second respondent is directed to delete the said entry from the Encumbrance Certificate qua the said land.

10. Instant Writ Petition is allowed. However the parties are left to bear their respective costs considering the nature of matter.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To

1.The District Registrar,
Palani,
Dindigul District.

2.The Sub Registrar,
Vadamadurai,
Dindigul District.

+1 CC to M/s.SPL GP (SR-87264[F] dated 17/09/2019)

+1 CC to M/s.P.MANIKANDAN, Advocate (SR-86673[F] dated 13/09/2019)

W.P (MD) No.18992 of 2019
13.09.2019

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