



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2019

CORAM:

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P. [MD]No.25658 of 2019

and

W.M.P. [MD]Nos.22243 & 22244 of 2019

WEB COPY

V.Kasirajan

: Petitioner

Vs.

1.The Secretary,
Revenue Department,
Fort St. George,
Chennai - 600 009.

2.The Inspector General of Registration,
100, Santhome High Road,
Mandavelipakkam,
Raja Annamalaipuram,
Santhome,
Mylapore,
Chennai - 28.

3.The Sub Registrar,
O/o. Sub Registrar,
Main Road, Kovilpatti - 628 501.
Tuticorin District.

4.M.Gobalakrishnan

5.M.Kanniyammal

: Respondents

PRAYER: This Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents to cancel the registration of fifth respondent Document No.1085 / 2003 dated 04.03.2003.

For Petitioner

: Mr.K.Chinraj

For Respondents 1 to 3

: Mr.M.Murugan

Government Advocate

O R D E R

The limited scope in the writ petition is for a Mandamus, directing the respondents to cancel the registration of the fifth respondent Document No.1085 / 2003 dated 04.03.2003.

2.Heard Mr.K.Chinraj, learned counsel appearing for the petitioner and Mr.M.Murugan, learned Government Advocate, appearing for respondents 1 to 3.



3.The petitioner seems to have purchased the property from the fourth respondent, his father and brother by way of Document No.3800 of 1992 and he has been in possession and enjoyment of the same. It appears that after eleven [11] years, the fourth respondent and his father and brother have entered into a sale agreement with the fifth respondent agreeing to sell the very same property and subsequently sold the property on 04.03.2003. Therefore, the petitioner is seeking a direction to the official respondents to cancel the registration in favour of the fifth respondent by cancelling the Document No.1085 of 2003 dated 04.03.2003.

4.Learned Counsel appearing for the petitioner placed reliance on a judgment of the Hon'ble Supreme Court in the case of **Thota Ganga Laxmi Vs. The Government of Andhra Pradesh** reported in **(2010) 15 SCC 207**, wherein it has been specifically held that once the sale deed is executed, unless the same is cancelled by the Civil Court, the Registering authority cannot be compelled to cancel the same. Following the same, the larger Bench of the Hon'ble Supreme Court in the case of **Satya Pal Anand Vs. State of Madhya Pradesh** reported in **(2016) 10 SCC 767**, has held as follows:

"36.If the document is required to be compulsorily registered, but while doing so some irregularity creeps in, that, by itself, cannot result in a fraudulent action of the State Authority. Non-presence of the other party to the extinguishment deed presented by the Society before the Registering Officer by no standard can be said to be a fraudulent action per se. The fact whether that was done deceitfully to cause loss and harm to the other party to the deed, is a question of fact which must be pleaded and proved by the party making such allegation. That fact cannot be presumed. Suffice it to observe that since the provisions in the 1908 Act enables the Registering Officer to register the documents presented for registration by one party and execution thereof to be admitted or denied by the other party thereafter, it is unfathomable as to how the registration of the document by following procedure specified in the 1908 Act can be said to be fraudulent. As aforementioned, some irregularity in the procedure committed during the registration process would not lead to a fraudulent execution and registration of the document, but a case of mere irregularity. In either case, the party aggrieved by such registration of document is free to challenge its validity before the civil Court."



5.In view of the above, the relief sought for by the petitioner cannot be granted. It is open to the petitioner to seek his remedy in an appropriate forum.

6.With the above observations, the Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

MR

To

1.The Secretary,
Revenue Department,
Fort St. George,
Chennai - 600 009.

2.The Inspector General of Registration,
100, Santhome High Road,
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Mylapore,
Chennai - 28.

3.The Sub Registrar,
O/o. Sub Registrar,
Main Road, Kovilpatti - 628 501.
Tuticorin District.

+2 CC to Mr.CHINRAJ.K, Advocate (SR-104231[F] dated 10/12/2019)

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