

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2020

CORAM :

The HON'BLE MR.JUSTICE M.DURAIWAMY

W.P.No.12697 of 2016

R.Venkatraman

... Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028.

2.The District Registrar (Administration),
Chennai - South,
Saidapet, Chennai.

3.The Sub Registrar,
Sub Registrar Office,
Velachery - 600 042.

... Respondents

Petition filed under Article 226 of the Constitution of India for issuing a writ of mandamus directing the 2nd respondent to cancel the Sale Deed bearing Document No.1762 of 1990 and Settlement Deed Document No.2901 of 2009 on the file of the 3rd respondent as per the Circular No.67 dated 03.11.2011 in accordance with law in terms of the decree granted by the Civil Court.

For Petitioner : Mr.V.Lakshminarayanan

For Respondents: Mr.B.Kannan,
Government Advocate

O R D E R

The petitioner has filed the above Writ Petition to issue a Writ of Mandamus directing the 2nd respondent to cancel the Sale Deed bearing Document No.1762 of 1990 and the Settlement Deed Document No.2901 of 2009 on the file of the 3rd respondent as per the Circular No.67 dated 03.11.2011 in accordance with law.

2.Mr.V.Lakshminarayanan, learned counsel appearing for the petitioner submitted that the petitioner's brother by name Rajamani had filed a suit in O.S.No.7615 of 1991 on the file of the XIII Assistant Judge, City Civil Court, Chennai to declare the Sale Deed dated 21.12.1990 bearing Document

No.1762 of 1990 as null and void. It is the case of the petitioner that the said document was fraudulently created by one K.Karunakaran. After contest, the said suit was decreed by the trial Court on 31.05.2005. As against the judgment and decree passed in O.S.No.7615 of 1991, the said K.Karunakaran filed an appeal in A.S.No.552 of 2005 on the file of the VI Additional Judge, City Civil Court, Chennai and the Lower Appellate Court also confirmed the judgment and decree of the trial Court and dismissed the appeal. As against the same, he filed a Second Appeal in S.A.No.172 of 2008 before this Court and this Court also had dismissed the Second Appeal on 06.10.2010. Aggrieved over the same, the said K.Karunakaran filed an appeal before the Hon'ble Supreme Court in S.L.P.No.5306 of 2011 and the Hon'ble Supreme Court also dismissed the appeal on 01.04.2011 and the decree passed in O.S.No.7615 of 1991 dated 31.05.2005 has become final. Now, the petitioner has filed the present Writ Petition seeking to cancel the Sale Deed, which is the subject matter of the suit in O.S.No.7615 of 1991 and also the Settlement Deed Document No.2901 of 2009 by giving a representation dated 23.03.2016 to the respondents.

3.Mr.V.Lakshminarayanan, learned counsel appearing for the petitioner submitted that though the petitioner has given his representation as early as on 23.03.2016, the respondents have not passed any order so far.

4.When the suit filed by the petitioner's brother in O.S.No.7615 of 1991 has been decreed and the Sale Deed dated 21.12.1990 has been declared as null and void, the prayer sought for in the present Writ Petition seeking for cancellation of the document is un-necessary. That apart, the Circular issued by the 1st respondent in Circular No.67 dated 03.11.2011 was also withdrawn by the 1st respondent on 20.10.2017 and a new Circular was issued on 08.11.2017. Since the decree passed in O.S.No.7615 of 1991 covers the issue involved in the present Writ Petition, instead of seeking for cancellation of the document by the respondents, the petitioner could have registered the decree passed in O.S.No.7615 of 1991, which was also confirmed in the First Appeal, Second Appeal and also by the Hon'ble Supreme Court in S.L.P.No.5306 of 2011 and the entry with regard to the cancellation of the document would reflect in the Encumbrance Certificate in respect of the property in question. In such view of the matter, I am not inclined to issue any mandamus to the respondents to cancel the document for the reason that the Sale Deed dated 21.12.1990 has already been cancelled by the Civil Court, which decree was also confirmed by the Hon'ble Supreme Court.

5.So far as the initiation of enquiry for the fraudulent registration of the document is concerned, it is open to the 2nd respondent to consider the petitioner's representation dated 23.03.2016 and dispose of the same, after giving

opportunity of hearing to all the interested parties.

6.Mr.V.Lakshminarayanan, learned counsel for the petitioner submitted that the petitioner may be granted four weeks time for registering the document before the 3rd respondent.

7.Taking into consideration the age of the petitioner and also the pendency of the Writ Petition, I grant four weeks time to the petitioner to register the decrees passed by the Civil Court as well as the order passed by the Hon'ble Supreme Court.

8.With these observations, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028.

2.The District Registrar (Administration),
Chennai - South,
Saidapet, Chennai.

3.The Sub Registrar,
Sub Registrar Office,
Velachery - 600 042.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No. 31066

W.P.No.12697 of 2016

LN(CO)
GN(06/11/2020)