

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.6600 of 2020
and
W.M.P.No.7821 of 2020

1.K. Jayaprakash
2.K. Mary

... Petitioners

Vs.

1.The District Registrar,
Chennai North
I Floor, Kuralagam,
Esplanade Road,
Chennai - 600 108.

2.The Sub-Registrar,
1st Street, Roja Nagar, VRD Nagar,
Madhavaram, Chennai - 600 060.

3.Manoharan
4.M.Gokulsen
5.M.Sudarsen

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of mandamus, directing the first respondent to dispose of the petitioner's representation dated 11.12.2019 to file police complaint against the third respondent in accordance with circular dated 31.07.2018 in Letter No.41530/2017 issued by the Inspector General of Registration, Chennai in accordance with circular dated 31.07.2018 and to cancel the registration of two Settlement Deeds dated 11.02.2015 registered as Doc.No.874/2015 and Doc.No.875/2015 by the 2nd respondent with respect to the vacant land situated at VOC Street, Madhavaram Village No.34, Chennai - 600 060 comprised in Survey No.1051.

For Petitioners : Mr. S. Suresh

For Respondents : Mr. T.M. Pappiah, for R1 & R2
Special Government Pleader

O R D E R

This writ petition has been filed for the issue of writ of mandamus directing the first respondent to consider the representation made by the petitioners who is seeking for action against the third respondent for creating a fraudulent document and for cancellation of the two settlement deeds dated 11.02.2015.

2. The case of the petitioners is that the subject property was originally owned by the father of the petitioners. According to the petitioners, this property was illegally grabbed by the third respondent by using an unregistered sale deed dated 25.08.1994. The third respondent is said to have executed two settlement deeds in favour of fourth and fifth respondents, in the year 2015.

3. The petitioners had already filed a suit in O.S.No.96/2015 on the file of the District Munsif Court, Thiruvottiyur against the third respondent seeking for the relief of permanent injunction. According to the petitioners, even in the written statement, the third respondent had taken only the plea of adverse possession. Thereafter, the fourth and fifth respondents had approached this Court for survey and measure of the property on the ground that they have become the owners of the property through the settlement deed executed in their favour by the third respondent in the year 2015. This Court passed an order dated 09.02.2018 by giving appropriate direction to the Tahsildar. It is only thereafter, the petitioners came to know about the execution of the settlement deeds in favour of the fourth and fifth respondents. Consequently, the petitioners made a representation to the first respondent to take action against the third respondent for having created fraudulent document. Since the same was not considered, the present writ petition has been filed before this Court.

4. Heard the learned counsel for the petitioners and the learned counsel for the respondents.

5. The petitioners have already instituted a suit before the District Munsif Court, Thiruvottiyur wherein, the right over the subject property is being substantially considered by that Court. Now, that the petitioners became aware about the creation of two settlement deeds in favour of the fourth and fifth respondents herein, the petitioners can always amend the pleadings and seek for a declaration with regard to those settlement deeds and also make the fourth and fifth respondents as defendants in the suit. While the suit is pending before the competent civil Court, it will not be appropriate for the first respondent to parallelly undertake an exercise against the third respondent on the ground of the

alleged fraudulent transfer of the property in favour of the fourth and fifth respondents through a registered settlement deed. Therefore, this issue which can be agitated before the competent civil Court by the petitioners, need not parallelly be agitated before the first respondent.

6. In view of the above, this Court is not inclined to issue any direction to the first respondent based on the representation made by the petitioners and it will always be left open to the petitioners to agitate the same before the competent civil Court before which the suit is already pending.

7. This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO-MUD)

//True Copy//

Sub Assistant Registrar

AT

To

1.The District Registrar,
Chennai North
I Floor, Kuralagam,
Esplanade Road,
Chennai - 600 108.

2.The Sub-Registrar,
1st Street, Roja Nagar, VRD Nagar,
Madhavaram, Chennai - 600 060.

+1cc to Mr.S.Suresh, Advocate SR.23338

+1cc to the Government Pleader SR.24073

W.P.No.6600 of 2020

and

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BR(CO)
CB(17/06/2020)

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