

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.09.2020

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

WP.No.13176/2020

1.Mr.S.Varatharajan
2.Mrs.V.Sangeetha .. Petitioners
Petitioners 1&2 are rep.by their
power agent P.Sethuramalingam.

Versus

1.The District Registrar
Saidapet, Chennai South
Guindy Industrial Estate
Arulayanpet, Guindy
Chennai.

2.The Sub Registrar Joint I
Saidapet SRO, Saidapet
Chennai South,
Guindy Industrial Estate
Arulayanpet, Guindy
Chennai.

3.R.Karthikeyan .. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to cancel the Sale Agreement in Doc.No.586/2014 in the name of the 3rd respondent and consequently cancel all the entries entered in the Encumbrance Certificate within a prescribed period as decided by this Court.

For Petitioner : Dr.K.Sundararaj
For RR 1 & 2 : Mr.T.M.Pappiah, Spl.GP

ORDER

(1)This writ petition has been filed for the issue of a writ of mandamus directing the respondents to cancel the entry made in the Encumbrance Certificate as a result of the registration of the Agreement of Sale dated 23.01.2014, in the office of the 2nd respondent.

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- (2)The learned counsel for the petitioners submitted that the petitioners are the absolute owners of the property and the Agreement of Sale itself has become unenforceable in law since the remedy is barred by limitation. The grievance of the petitioners is that the entry continues to remain in the Encumbrance Certificate and it becomes difficult for the petitioners to deal with the property. Therefore, a representation was made to the respondents to delete the entry.
- (3)Mr.T.M.Pappiah, learned Special Government Pleader accepting notice on behalf of the respondents 1 and 2 submitted that the respondents do not have the power to delete the entries made in the Encumbrance Certificate. Therefore, the request made by the petitioners cannot be considered by the respondents.
- (4)In the considered view of this Court, the respondents 1 and 2 do not have the right or jurisdiction to delete the entries made in the Encumbrance Certificate. If according to the petitioners, no claim can be made from the earlier Agreement of Sale registered on 23.01.2014, since the relief is barred by the law of limitation, it happens only through the operation of law. That will not be a ground for the respondents 1 and 2 to delete an entry made in the Encumbrance Certificate. Such deletion of entry will tantamount to the cancellation of the document itself. No such powers are traceable to the Registration Act.
- (5)In view of the above, this Court is not in a position to grant the relief as sought for by the petitioners. This writ petitions is disposed of accordingly. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The District Registrar
Saidapet, Chennai South
Guindy Industrial Estate
Arulayanpet, Guindy
Chennai.

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2.The Sub Registrar Joint I
Saidapet SRO, Saidapet
Chennai South,
Guindy Industrial Estate
Arulayanpet, Guindy
Chennai.

+1cc to Dr.K.Sundaraj, Advocate SR.31229
+1cc to the Government Pleader SR.31294

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