

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WP No.12025 of 2020 and WMP No.14764 of 2020

Mrs.S.Sevanthayee

...Petitioner

Vs.

1. The Sub-Registrar,
Peddhanaickenpalayam,
Salem District.

2. Gopal

...Respondents

PRAYER: Writ Petitions filed under Article 226 of Constitution of India, seeking Writ of Mandamus, forbearing the 1st respondent from registering any document relating to the property in Survey No.61/4 in No.109, Palaniyapuri Revenue Village, Peththanaickenpalauam Taluk in Salem District, within the Sub-Registration District of Peththanaickenpalauam, in Salem East Registration District, if presented by the 2nd respondent.

For Petitioner : Mr.R.Neelakandan

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

ORDER

This writ petition has been filed for the issue of writ of Mandamus forbearing the 1st respondent from registering any document relating to the subject property that is presented for registration by the 2nd respondent.

2. The case of the petitioner is that her husband was the owner of the subject property. Subsequent to his death, the petitioner and her children succeeded to the property and they are in continuous possession and enjoyment of the same. The further case of the petitioner is that the property tax has been assessed in her name and the patta was also issued in the name of petitioner and her children.

3. The grievance of the petitioner is that the 2nd respondent had surreptitiously included 73 cents in the property belonging to the petitioner, in the partition deed executed among the family members of the 2nd respondent during the year 2007. Thereafter, he managed to mutate the revenue records and his name has also been included as a Joint Pattadharar for the subject property. Therefore, the petitioner made a representation to the revenue authorities requesting to delete the name of the 2nd respondent from the joint patta. According to the petitioner, the property was inspected and the proceedings are pending before the revenue authorities. While so, the 2nd respondent was attempting to create 3rd party rights by dealing with the subject property and creating encumbrance over the property. The petitioner therefore made a representation to the 1st respondent not to register any documents presented by the 2nd respondent with respect to the subject property. In spite of giving such a protest/representation, there was no response from the 1st respondent. Left with no other option, the present writ petition has been filed before this court seeking for appropriate directions.

4. Heard Mr. Neelakandan, learned counsel for the petitioner and Mr. T. M. Pappiah, learned Special Government Pleader, appearing on behalf of the 1st respondent.

5. It is seen from records that the petitioner has already taken steps before the revenue authorities to get the name of the 2nd respondent deleted from the Joint patta. According to the petitioner, the proceedings are pending. If the 2nd respondent is attempting to alienate the properties belonging to the petitioner and her children, the petitioner should only approach the competent civil court and seek for an appropriate relief against the 2nd respondent. The 1st respondent cannot act upon the representation made by the petitioner and refuse to register the documents presented by the 2nd respondent. This Court cannot issue a writ of Mandamus and prevent the 1st respondent from performing his statutory duties.

6. In the considered view of this court, the relief sought for by the petitioner cannot be granted by this Court and the petitioner will have to necessarily approach the competent Civil court and seek for the necessary relief against the 2nd respondent. Under such circumstances, this Court does not find any merits to entertain this writ petition, except giving liberty to the petitioner to approach the appropriate Civil

court. This writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

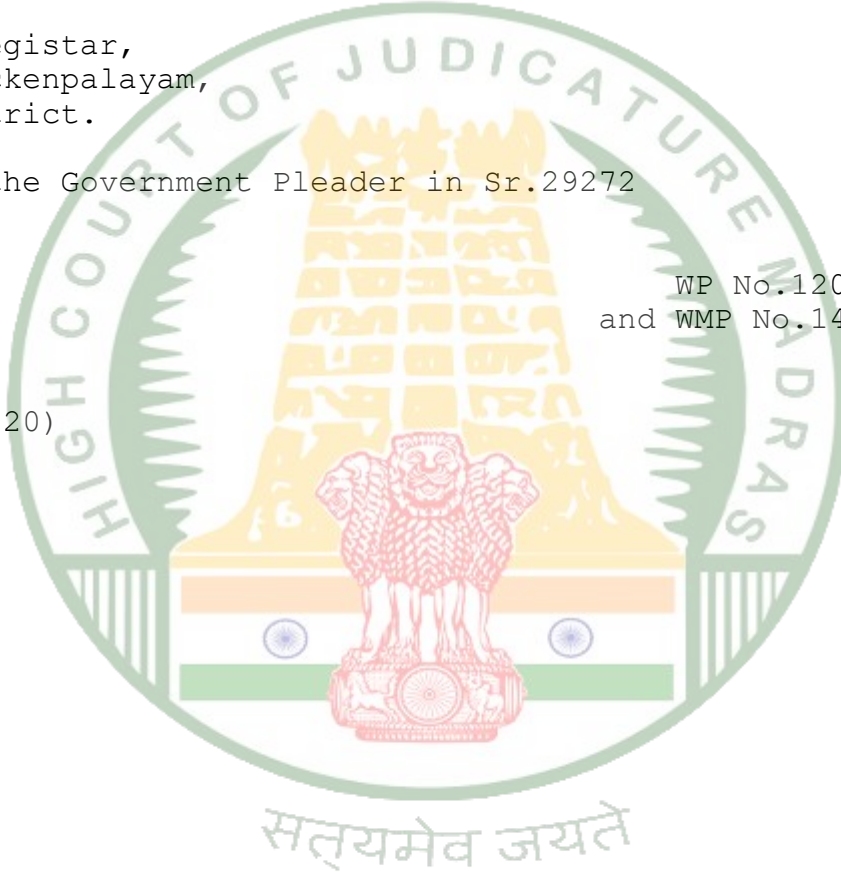
To

The Sub-Registrar,
Peddhanaickenpalayam,
Salem District.

+1 cc to the Government Pleader in Sr.29272

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