

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.09.2020

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

WP.No.12516/2020

Chandralekha

.. Petitioner

Versus

1.The Inspector General of Registration
Chennai.

2.The District Registrar
District Registrar Office
Tirupattur District.

3.The Sub Registrar,
Jolarpet, Tirupattur District.

4.Raviraj

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of directing the 2nd respondent to consider the representation of the petitioner dated 18.06.2020.

For Petitioner : Ms.S.Jayalakshmi for
M/s.Karan and Uday

For RR 1 to 3 : Mr.T.M.Pappiah, Spl.GP

ORDER

- (1) This writ petition has been filed for the issue of a writ of mandamus, directing the 2nd respondent to consider the representation made by the petitioner on 18.06.2020 and to take necessary action within the time stipulated by this Court.
- (2) The case of the petitioner is that the petitioner is the owner of the subject property and the petitioner entered into an Agreement of Sale with the 4th respondent on 08.10.2014. This Sale Agreement was also registered on the file of the 3rd respondent. The further case of the petitioner is that the total sale consideration was fixed as Rs.22,25,000/- and the petitioner also received an advance of a sum of Rs.5,90,000/- out of the total sale consideration. According to the petitioner, time was the essence of the contract and the 4th

respondent did not come forward to pay the remaining sale consideration and thereby, the Sale Agreement itself lapsed. The further case of the petitioner is that the period of limitation for filing a suit for specific performance also expired and therefore, the 4th respondent has lost his right either to get the Sale Deed executed in his favour or to receive the advance amount from the petitioner.

- (3) The grievance of the petitioner is that since the Encumbrance Certificate carries the entry that was made when the Agreement of Sale was registered in the year 2014, the petitioner is not able to deal with the property. The petitioner, therefore, made a representation to the 2nd respondent to delete the entry made in the Encumbrance Certificate. Since the same was not acted upon, the present writ petition has been filed seeking for appropriate directions.
- (4) Heard the submissions of the learned counsel for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader accepting notice on behalf of the respondents 1 to 3.
- (5) The representation made by the petitioner to the 2nd respondent, cannot be acted upon by the 2nd respondent since the 2nd respondent has not been vested with any right under the relevant Enactment to cancel any entries made in the Encumbrance Certificate. If the Sale Agreement has not been acted upon, the effect of the same will happen by operation of law and that cannot create a cause of action for the 2nd respondent to cancel an entry made in the Encumbrance Certificate. If the petitioner finds that the entry made in the Encumbrance Certificate is stopping the petitioner from dealing with the property, the petitioner has to move the competent Civil Court and get the Sale Agreement cancelled on the ground that it has become non est in the eye of law. Once such a remedy is granted by the Civil Court, the said decree can be registered before the 3rd respondent. By registering such a decree before the 3rd respondent, the earlier entry made in the year 2014 will automatically get reversed and this is the only way in which the earlier entry made in the Encumbrance Certificate can be nullified by the parties concerned.
- (6) In view of the above, this Court is not inclined to grant the relief as sought for in this writ petition, except to give a liberty to the petitioner to work out her remedy in the manner indicated in this order.
- (7) This writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

1.The Inspector General of Registration
Chennai.

2.The District Registrar
District Registrar Office
Tirupattur District.

3.The Sub Registrar,
Jolarpet, Tirupattur District.

+1 cc to The Government Pleader, Sr.No. 30387

WP.No.12516/2020

LN(CO)

RMP(15/10/2020)