

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.13704 of 2020

Naseema Shaheen

... Petitioner

Vs.

1.The Inspector General of Registration,
Santhome High Road, Mylapore,
Chennai - 600 004.

2.The District Registrar,
Central Central,
No.182, Bharathi Salai,
Royapettah,
Chennai - 600 014.

3.The Sub Registrar,
No.124, Arcot Road, Virugambakkam,
Chennai - 600 045.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 3rd respondent to remove / delete the aforesaid alleged forged document entries reflecting in the Encumbrance Certificate Viz., 1) Sale Deed dated 04.05.2011 registered as document No.2489/2011, 2) Sale Deed dated 17.06.2011 registered as document No.3307/2011, 3) Cancellation Deed dated 22.06.2011 registered as document No.3520/2011, 4) Cancellation Deed dated 22.06.2011 registered as document No.3548/2011, 5) Power of Attorney dated 16.06.2011 registered as document No.1175/2011, 6) Cancellation of POA dated 17.06.2011 registered as document No.1194/2011 on the file of the 3rd respondent relating to my property based on my application within a stipulated time.

For Petitioner : M/s.E.Maharajan

For Respondents: Mr.T.M.Pappaiah
Special Government Pleader

O R D E R

This writ petition has been filed for issuance of a writ of mandamus directing the 3rd respondent to delete the entries made in the Encumbrance Certificate pertaining to Document Nos.2489/2011 and 3307/2011, which were registered on 04.05.2011 and 17.06.2011 respectively.

2.The case of the petitioner is that, fabricated sale deeds were registered on 04.05.2011 and 17.06.2011 on the file of the 3rd respondent. Subsequently, these sale deeds were cancelled by execution of cancellation deeds which were also registered as Document Nos.3520/2011 and 3548/2011 respectively. The further case of the petitioner is that the cancellation deeds are also reflected in the Encumbrance Certificate. Subsequently, the revenue records were also mutated and as of today, there is absolutely no dispute with regard to the fact that the petitioner is the owner of the subject property.

3.The grievance of the petitioner is that the earlier entries that were made in the Encumbrance Certificate, when the fabricated sale deeds were registered in the year 2011, are causing a lot of problems to the petitioner when the petitioner applies for any Bank loan. Therefore, the petitioner made a representation to the 3rd respondent on 10.09.2020 requesting for deletion of the entries. Since the same was not acted upon, the present writ petition has been filed before this Court seeking for appropriate directions.

4.Heard Mr.E.Maharajan, learned counsel for the petitioner and Mr.T.M.Pappaiah, learned Special Government Pleader, appearing on behalf of the respondents.

5.In the considered view of this Court, the respondents do not have any right to delete any entry from the Encumbrance Certificate. The fact that the fabricated sale deeds have been cancelled by the subsequent cancellation deeds executed on 22.06.2011 and the same have also been registered as Document Nos.3520/2011 and 3548/2011, it virtually reverses the earlier entries made at the time when the fabricated sale deeds were registered on the file of the 3rd respondent. Therefore, there is absolutely no requirement to delete the entries that were made at the time when the fabricated sale deeds were registered. The deletion automatically takes place by operation of law by virtue of subsequent cancellation deeds coming into force. This has to be taken into consideration by the concerned Bank at the time of considering the request made by the petitioner for loan. The Bank cannot insist for cancellation of any earlier

entry made in the Encumbrance Certificate which has absolutely no effect by virtue of the subsequent cancellation deeds coming into force. In fact, the registration of the cancellation deeds is also reflected in the Encumbrance Certificate, since those documents were also registered.

6.In view of the above, except giving this clarity, no further order requires to be passed in this writ petition. This writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Inspector General of Registration,
Santhome High Road, Mylapore,
Chennai - 600 004.
- 2.The District Registrar,
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Chennai - 600 014.
- 3.The Sub Registrar,
No.124, Arcot Road, Virugambakkam,
Chennai - 600 045.

+1cc to Mr.Naganathan, Advocate Sr.32339

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srg 19/10/2020