

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos.18721, 18725 and 18730 of 2020
and

WMP Nos.23250, 23251, 23249, 23254, 23255, 23262 to 23264 of 2020

W.P.No.18721 of 2020

J.Jayaniithaa ..Petitioner in W.P.No.18721 of 2020

.Vs.

- 1.Inspector General of Registration,
100, Santhome High Road,
Raja Annamalai Puram,
Chennai-600 028.
- 2.The District Registrar (Administration),
South Chennai,
No.9, Jones Road,
Saidapet, Chennai 600 015.
- 3.The Sub Registrar,
Alandur,
Having office at No.12, 1st Main Road,
Nanganallur Co operative Society Ltd.,
Nanganallur, Chennai 600 061.
- 4.Mr.D.Nethaji.

..Respondents

in W.P.No.18721 of 2020

Prayer in W.P.No.18721 fo 2020: Writ Petition filed under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent pertaining to the impugned settlement deed dated 15.04.2015 registered as Document No..2637 of 2015 on the file of SRO, Alandur, executed by late P.Deekaraman in favour of D.Netaji, the 4th respondent herein and to quash the same and consequently direct the 3rd respondent to remove the entry of settlement deed dated in Document No.2637 of 2015 dated 15.04.2015 from their records.

W.P.No.18725 of 2020

J.Suhanya

..Petitioner in W.P.No.18725 of 2020

.Vs.

1.Inspector General of Registration,
100, Santhome High Road,
Raja Annamalai Puram,
Chennai-600 028.

2.The District Registrar (Administration),
South Chennai,
No.9, Jones Road,
Saidapet, Chennai 600 015.

3.The Sub Registrar,
Alandur,
Having office at No.12, 1st Main Road,
Nanganallur Co operative Society Ltd.,
Nanganallur, Chennai 600 061.

4.Mr.D.Nethaji.

..Respondents
in W.P.No.18725 of 2020

Prayer in W.P.No.18725 of 2020: Writ Petition filed under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent pertaining to the impugned settlement deed dated 15.04.2015 registered as Document No..2637 of 2015 on the file of SRO, Alandur, executed by late P.Deekaraman in favour of D.Netaji, the 4th respondent herein and to quash the same and consequently direct the 3rd respondent to remove the entry of settlement deed dated in Document No.2637 of 2015 dated 15.04.2015 from their records.

W.P.No.18730 of 2020

1.R. Jayachandran

2.J.Bharath Kumar

..Petitioners in W.P.No.18730 of 2020

.Vs.

1.Inspector General of Registration,
100, Santhome High Road,
Raja Annamalai Puram,
Chennai-600 028.

2.The District Registrar (Administration),
South Chennai,
No.9, Jones Road,
Saidapet, Chennai 600 015.

3.The Sub Registrar,
Alandur,
Having office at No.12, 1st Main Road,
Nanganallur Co operative Society Ltd.,
Nanganallur, Chennai 600 061.

4.Mr.D.Suresh ...Respondents in W.P.No.18730 of 2020

Prayer in W.P.No.18730 of 2020: Writ Petition filed under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent pertaining to the impugned settlement deed dated 15.04.2015 registered as Document No.2638 of 2015 on the file of SRO, Alandur, executed by late P.Deekaraman in favour of D.Suresh, the 4th respondent herein and to quash the same and consequently direct the 3rd respondent to remove the entry of settlement deed dated in Document No.2638 of 2015 dated 15.04.2015 from their records.

For Petitioner
in All WPs : Mr.Abudu Kumar Rajarathinam
for Mr.G.Krishna Kumar

For RR 1 to 3
in All WPs : Mr.T.M.Pappaiah
Special Government Pleader

COMMON ORDER

On consent given by either side, the main writ petitions are taken up for final hearing.

2. The issue involved in all these writ petitions are common and therefore they are taken up together and this common order is passed.

3. The petitioners are challenging the registration of the Settlement Deed dt. 15.04.2015, registered as Document No. 2637 and Document No.2638 of 2015, on the file of the 3rd respondent and for a consequential direction to the 3rd respondent to remove the entry from their records.

4.The case of the petitioners is that the subject property is an Inam Land measuring an extent of 3.11 acres purchased by one late Mr. ASL Rajan, who is the father of the 1st petitioner in W.P. No. 18730 of 2020 and grandfather of the petitioners in W.P.Nos. 18721, 18725 of 2020 and 2nd petitioner in W.P.No.18730 of 2020. It is seen from records that one Mr. Dharmalinga Naicker filed a Suit against the said ASL. Rajan in O.S.No.779 of 1979, seeking for the relief of Declaration of Title with respect to the subject property and the said Suit was dismissed after contest by judgment and decree dt. 28.04.1988. Thereafter, the father of the 4th respondent filed another Suit against the said late ASL. Rajan in O.S. No. 582 of 1997, for the relief of Declaration of Title, on the ground that he purchased the subject property from Dharmalinga Naicker. This suit was also dismissed after contest by judgment and decree dt.30.04.2003, passed by the District Munsif Court, Alandur.

5. The above said late ASL. Rajan, developed a layout after obtaining permission which had 31 plots. Since the property was an Inam Land, proceedings were initiated by the Assistant Settlement Officer under Act 30 of 1963 and considered the grant of Patta for the Inam Land under Section 13(1) of the Act. Ultimately, by proceedings dt. 24.12.1999, Patta was granted in favour of late ASL. Rajan. It is seen from records that late ASL. Rajan, had also dealt with the property and a portion of the property was conveyed to the Government of Tamil Nadu for the formation of the Inner Ring Road in the year 2000. Thereafter, the property was settled in favour of the petitioners in the year 2004. This Settlement Deed was also registered on the file of the 3rd respondent. The petitioners also applied for sub division and Patta and the same was also issued in favour of the petitioners.

6. In spite of all the above developments, the father of the 4th respondent managed to get a Patta for the subject property from the RDO, Tambaram and he also managed to get the necessary correction in the Town Survey Field Register. The same became a subject matter of challenge before this Court in W.P. Nos. 13302 and 13303 of 2015. These Writ Petitions were allowed by an order dt. 20.11.2019. The relevant portions in the order are extracted hereunder:

6.After sometime, the father of the petitioner in W.P. No.13302 of 2015 late Mr.A.S.L.Rajan purchased 3.11 acres of land from and out of the 3.86 acres of land from the said A.S.Perumal Naicker vide (a) 0.66 acres in Paimsash No.558 (b) 1.45 acres in Paimash No.558/1 and (c) 1.00 acre in Paimash No.620, in all measuring 3.11 acres under a Registered Sale Deed dated 15.3.1971 bearing Document

No.571/71 on the file of the Sub-Registrar, Alandur. These paimash numbers correlate to S.Nos.71/1 and 71/3 as well as T.S.No.184, Adambakkam Village. Finally, since it is claimed that the said lands are Inam lands covered under the Minor Inam Act, the father of the Petitioner in W.P.No.13302/2015 was issued with notice dated 24.2.1973 under the said Act for enquiry and issuance of patta by the Settlement Tahsildhar, Chengelpat in SR.No.24B19/G.R/TNMIA/Act 30/SDT/63 in respect of Survey No.71/1 and SR.No.24B19/73. W.P. Nos.13302 & 13303 of 2015 Act/SDT/30/63 in respect of Survey No.71/3. Subsequently, a fresh notice in SR.263/88/TNMIA/Act/30/63/SDT dated Nil/01/1988 was issued by the Assistant Settlement Officer, Thiruvannamalai and after completion of enquiry, the Assistant Settlement Officer, Thiruvannamalai vide proceedings No.Tha.Pa.No.5/99 dated 24.12.1999 passed an order directing the concerned Tahsildar, Tambaram to issue patta to Mr.A.S.L.Rajan for the lands in Survey Nos.71/1 and 71/3 after considering the rival claim of the 5th respondent as well. Based on the same, the jurisdictional Zonal Deputy Tahsildar-Alandur, Tambaram Taluk has issued patta to Mr.A.S.L.Rajan, father of the petitioner in W.P. No.13302 of 2015 after making necessary entries in the Town Survey Field Register (TSFR).

7.Since the Assistant Settlement Officer, Thiruvannamalai exercising his power under Section 11 of the Act has issued the patta on 24.12.1999 in the name of A.S.L.Rajan, father of the petitioner in W.P. No.13302 of 2015 and thereafter, the revenue records were also changed in his name in the year 2000 based on the patta issued by the Assistant Settlement Officer, Tiruvannamalai and in view of the change in the revenue records, a settlement was also executed by him in favour of his son and grand son on 21.06.2004 and based on the settlement, a joint patta was also in W.P. Nos.13302 & 13303 of 2015 obtained in the name of the petitioners on 22.11.2012, the order passed by the Revenue Divisional Officer is per se beyond the scope of the said Act. If any patta issued by the Assistant Settlement Officer, any aggrieved party either Government

or private parties can approach the Tribunal under Section 11(3) of the Act. It is necessary to extract the relevant Section 11(3) of the Act as under:

'11(3) Against a decision of the Assistant Settlement Officer under sub-section (2), the Government may, within one year from the date of the decision, and any person aggrieved by such decision may, within three months of the said date, appeal to the Tribunal:

Provided that the Tribunal may, in its discretion, allow further time not exceeding two months for the filing of any such appeal. Provided further that the Tribunal may, in its discretion, entertain an appeal by the Government at any time if it appears to the Tribunal that the decision of the Assistant Settlement Officer was vitiated by fraud or by mistake of fact.'

8. A careful perusal of the above provision vividly shows that against the decision of the Assistant Settlement Officer under sub section (2) of the Act, if the Government is aggrieved party, the Government may within one year from the date of decision and if any private party is aggrieved by such decision, such private party may within three months from the date of the said order, prefer appeal to the Tribunal. But, in the present case, in W.P. Nos.13302 & 13303 of 2015 the Revenue Divisional Officer, who is not even a proper authority under the said Act, without any jurisdiction, wrongly passed the order which shows his non application of mind.

9. Therefore, in the light of the above provision, namely, Section 11(3) of the Act, the impugned order passed by the Revenue Divisional Officer, Tambaram is non est in the eye of law and the same is set aside. Accordingly, the writ petition stands allowed. Since the joint patta was also issued on 22.11.2012 in the name of the petitioners, their names shall be restored in the revenue records within a period of eight weeks from the date of receipt of a copy of this order. Consequently, connected M.Ps are closed. No costs.

7. The story did not stop there. The father of the 4th respondent in complete disregard to all the earlier proceedings, executed a Settlement Deed dt. 15.04 2015, in favour of the 4th respondent, with respect to the subject property. The petitioners made a detailed complaint to respondents 1 to 3 and asked them to take action against the 4th respondent for the fraudulent transaction. The 2nd respondent directed the 3rd respondent to initiate action against the 4th respondent under Section 83 of the Registration Act. The grievance of the petitioners is that the relevant entry with regard to the fraudulent Settlement Deed continuous to be exhibited in the Encumbrance Certificate and aggrieved by the same, the present Writ Petitions have been filed before this Court seeking for appropriate directions.

8. Heard Mr. Abudu Kumar Rajarathinam, learned counsel for petitioners and Mr. T.M. Pappiah, learned Special Government Pleader appearing on behalf of respondents 1 to 3.

9. The above stated facts clearly establishes that the 4th respondent and his father do not have any regard for orders passed by any Court or Authority. In spite of failing before the Competent Civil Court, the father of the 4th respondent has executed a Settlement Deed without any semblance of right. It looks as if, the 4th respondent and his father will keep executing documents with regard to the subject property and unfortunately the 3rd respondent is mechanically entertaining the documents and registering the same. There is no provision in the Registration Act which enables the official respondents to cancel any document or any entry made in the records. In a situation like this, expecting the parties to go before the Civil Court every time an illegal document is registered, makes it almost impossible for the real owner of the property to deal with his own property. It is a known factor that proceedings initiated before the Civil Court does not come to an end that quickly and it is a long drawn journey.

10. In a case of this nature, this Court has to necessarily find a way out in exercise of its Jurisdiction under Article 226 of the Constitution of India. It is clear from the above that the Settlement Deed has been executed by the father of the 4th respondent without any right, title or or authority and the Settlement Deed dt. 15.04.2015 is non est in the eye of law. This is the second time this Court is dealing with the rights of the petitioners and the relevant portions extracted supra from the earlier Orders passed by this Court, is enough to establish

the right of the petitioners over the subject property. In the present Writ Petitions, the same can only be reiterated by this Court.

11. In view of the above, this Court holds that the Settlement Deed dt. 15.04.2015, registered as Document Nos.2637 and 2638 of 2015 executed by the father of the 4th respondent in favour of the 4th respondent as non-est in the eye of law. The petitioners shall present this order for registration before the 3rd respondent and the 3rd respondent shall register the same on payment of the necessary stamp duty and registration fees. By such registration, the earlier entries made in Document Nos. 2637 and 2638 of 2015, will get automatically reversed.

12.All these Writ Petitions are accordingly allowed with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

KP

To

1.Inspector General of Registration,
100, Santhome High Road,
Raja Annamalai Puram,
Chennai-600 028.

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Having office at No.12, 1st Main Road,
Nanganallur Co operative Society Ltd.,
Nanganallur, Chennai 600 061.

+1 CC to The Government Pleader sr 41418, 41420.

+3 CCS to Mr.G.Krishnakumar, Advocate sr 41394 to 41396.

W.P.Nos.18721, 18725 and 18730 of 2020

SAI (CO)
SP(30/12/2020)