

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.02.2020
CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No. 18362 of 2017

D. S. Senthil

...Petitioner

-vs-

1. The Inspector General of Registration,
100, Santhome High Road,
Chennai - 28.
 2. The Additional Inspector General of Registration,
Salem - 7.
 3. The District Registrar,
Dharmapuri.
 4. The Sub Registrar,
Palakode, Dharmapuri District.
 5. Mr. Ganesan
 6. Mr. P.G. Murugesan
- ... Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in No.1091/A1/2016 dated 07.10.2016, quash the same and consequently direct the 3rd respondent to cancel the registered Sale Deed Document No.26 of 2009 on the file of the Sub-Registrar Office, Palakode, within the time to be stipulated by this Court.

For Petitioner : Mr.R.Bharath Kumar

For Respondents : Mr.P.Purushothaman
Government Advocate [R1 to R4]

R6 - No appearance

ORDER

Heard Mr. R.Bharath Kumar, learned counsel for petitioner and Mr.P.Purushothaman, learned Government Advocate for respondents 1 to 4. Notice has been served on 6th respondent and his name also printed in the cause list and he does not chosen to enter appearance through counsel.

2. With consent of learned counsel on either side, the writ petition itself is taken up for final disposal.

3. The petitioner challenges the order passed by the 3rd respondent, the District Registrar, Dharmapuri dated 07.10.2016 rejecting the petitioner's prayer to cancel the sale deed executed by the 5th respondent in favour of the 1st respondent.

4. A perusal of the impugned order reveals that there are several disputes concerning the property as well as the other properties between the petitioner and the 5th respondent. The 5th respondent and his mother, sisters and brothers and the 6th respondent, who is the purchaser of the property, are defendants in all the suits. Apart from the suits, which are pending before the District Court, Dharmapuri, appeal suits are also pending before this Court in A.S.Nos.1068 of 2019, 1019 of 2012 and 1054 of 2012. Citing all the pending suits, the 3rd respondent rejected the petitioner's application and refused to cancel the sale deed.

5. The learned counsel for the petitioner's contention is that taking advantage of an illegal entry in the revenue records, the 5th respondent has sold the property in favour of the 6th respondent and this sale transaction itself has been questioned by its own mother, sisters and brother and a suit is pending and it appears that there are certain interim orders in the suit. Thus, it is the submission of the learned counsel for the petitioner that when the insertion of the name of the 5th respondent in the patta itself is illegal and he derives no title to the property and could not have executed the sale deed. Therefore, the 3rd respondent ought to have set aside the sale deed executed by the 5th respondent in favour of the 6th respondent. Further, the learned counsel has referred to an affidavit sworn by the 5th respondent dated 12.5.2017 in the presence of notary public, stating that he is not in possession and enjoyment over the land at Dhandukaranahalli Village bearing (1) survey No.238 (Patta No.1142) to an extent 1.41.0 Hecter Assessment Rs.4.77 and (2) Survey No.222 (Patta No.1595) to an

extent of 0.45.5 Hectors.

6. Admittedly, when there are civil disputes between the parties concerning the very same property, the authorities functioning under the Registration Act, stay away from venturing to decide the dispute because if the authorities functioning under the Registration Act interfere with such dispute, it would be a clear encroachment into the jurisdiction of the Civil Court because the authorities under the Registration Act cannot decide the title to the property. Furthermore, the petitioner is the 7th defendant in O.S.No.63 of 2012 filed by the mother, sisters and brother of the 5th respondent herein. The 5th respondent is the 1st defendant and the 6th respondent is the 14th defendant in the suit. Therefore, in the considered view of this Court, the 3rd respondent rightly rejected the prayer made by the petitioner to set aside the sale deed registered as document No.26 of 2009. Thus, the petitioner has not made out any ground to interfere with the impugned order.

7. In the result, the writ petition fails and stands dismissed. However, the dismissal of the writ petition will not affect the rights of the petitioner in pursuing his suits before the Civil Court in the pending litigation. It will be open to the writ petitioner to independently approach the Civil Court and put forth his contention, if he is so advised.

With the above observations, the writ petition stands dismissed. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

mp

To

1. The Inspector General of Registration,
100, Santhome High Road,
Chennai - 28.
2. The Additional Inspector General of Registration,
Salem - 7.

3. The District Registrar,
Dharmapuri.

4. The Sub Registrar,
Palakode, Dharmapuri District.

+1 cc to Government Pleader sr 9026

+1 cc to M/s.R.Bharath kumar Advocate sr9121

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sj(co)
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