

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.03.2020
CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
W.P No.30232 of 2018
and
W.M.P.Nos. 35284 & 35285 of 2018

R.Narayanan

Petitioner

vs.

1. The Inspector General of Registration,
Santhome,
Chennai - 600 004.
2. The District Registrar of Registration,
(Administration)
District Registrar Office,
Saidapet,
Chennai.
3. The Sub-Registrar of Registration,
Sub-Registrars Office
Neelangarai,
Chennai.
4. Mr.Gunaseelan
5. The Thasildar
Sholinganallur
6. The Revenue Divisional Officer
Chengalpet
7. The District Revenue Officer,
Kanchipuram.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the 2nd respondent dated 05.09.2017 in proceedings No.4352/AA3/2017 so far it relates to non-cancellation of the entry made on the files of the 3rd respondent, in Survey No. 10/2 (part) as per Patta 10/2A5 in Injambakkam Village in pursuant to the ex-parte decree dated 31.12.2004 in O.S.No. 263 of 2004 passed by the DMC, Alandur, which was admittedly set aside by the order passed in I.A.No. 1692 of 2006 in O.S.No. 263 of 2004 and also for the subsequent fact that the said suit itself was

dismissed on 20.03.2012 by the DMC, Alandur.

For Petitioner : Mr.Jerome Pushparaj

For Respondents: Mr.T.M.Pappiah
Special Government Pleader
for R1 to R3
Mr.G.B.Sabaridos for R4
Mr.K.Parameswaran
Government Advocate for R5 to R7

O R D E R

The present writ petition has been filed for cancellation of the entry made in the Encumbrance Certificate by the second respondent.

2. The case of the petitioner is that he had purchased the property by a registered sale deed dated 30.11.1989 and the same was registered on the file of the second respondent. The suit came to be filed against the petitioner and his vendor in O.S.No. 263 of 2004 and the suit was decreed exparte. The petitioner thereafter filed a petition to set aside the Exparte Decree and the same was allowed and ultimately the suit came to be dismissed on 23.03.2012.

3. The grievance of the petitioner is that the Exparte Decree was registered on the file of the third respondent. The petitioner also made a representation for removing the entry and since the same was not considered, he filed W.P.No. 41646 of 2016 before this Court and this Court by an order dated 28.11.2016, issued direction to the respondents to consider the representation made by the petitioner.

4. The learned counsel for the petitioner submitted that subsequently the petitioner had filed O.S.No. 61 of 2012 against the 4th respondent seeking to declare the sale deed as null and void. The grievance of the petitioner is that, in view of the dismissal of the suit in O.S.No. 263 of 2004, the entry made in the encumbrance certificate must be cancelled by the third respondent.

5. Per contra, the learned counsel appearing on behalf of the 4th respondent submitted that the dismissal of the suit has already been registered on the file of the third respondent. In order to substantiate the same, the petitioner also produced the Encumbrance Certificate and it is found in the encumbrance certificate that the dismissal of the suit in O.S.No. 263 of

2004 has been registered as Document No. 26/2015 on 15.07.2015.

6. The learned counsel for the 4th respondent submitted that in view of this entry, there is no requirement for the earlier entry to be cancelled.

7. The learned Special Government Pleader appearing on behalf of the respondents 1 to 3 submitted that the latter entry that has been made in the encumbrance certificate, which shows the dismissal of the main suit, squares the earlier entry made wherein an Exparte Decree was registered. The learned Special Government Pleader would further submit that in view of this entry, an earlier entry that is found in the encumbrance certificate will no more have any force.

8. This Court carefully considered the documents and the materials available on record.

9. The dispute between the petitioner and the 4th respondent is now pending before the District Munsif, at Alandur in O.S.No. 61 of 2012. This Court therefore does not want to go into the merits of the case and it is left open to the parties to agitate the same before the competent Civil Court.

10. In view of the fact that the dismissal of the suit in O.S.No. 263 of 2004 has already been registered in Document No. 26/15 on the file of the third respondent, the grievance expressed by the petitioner no longer subsists since this entry squares of the earlier entry pertaining to the Exparte Decree that was passed on an earlier occasion.

11. This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

सत्यमेव जयते Assistant Registrar

True Copy

Sub-Assistant Registrar

kmm

To

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

WEB COPY

2. The District Registrar of Registration,
(Administration)
District Registrar Office,
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3. The Sub-Registrar of Registration,
Sub-Registrars Office
Neelangarai,
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5. The Thasildar
Sholinganallur

6. The Revenue Divisional Officer
Chengalpet

7. The District Revenue Officer,
Kanchipuram.

+1 cc to Mr.G.A.Sabari das Advocate sr19153

+1 cc to Mr.Jerome Pushparaju Advocate sr19054

+1 cc to the Government Pleader sr19290

W.P No.30232 of 2018

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