



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P.(MD)No. 4773 of 2020

S.Kesavan

... Petitioner

Vs.

- 1.The District Registrar,
District Registrar Office,
Tanjore District,
Tanjore.
- 2.The Sub-Registrar,
Sub-Registrar Office,
Tanjore District,
Tanjore.
- 3.Alangaramary

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 and 2 consider the representation dated 27.01.2020 and consequently to direct the 1st and 2nd respondents to cancel the sale agreement dated on 15.09.2017, as per the civil court judgment & decree passed by the trial Court in O.S.No.59 of 2018 on the file of the Principal Subordinate Court, Kumbakonam dated 12.06.2019.

For Petitioner : Mr. P.Subbaraj

For Respondents 1 & 2 : Mr. M.Murugan
Government Advocate.

O R D E R

Heard Mr. P.Subbaraj, Learned Counsel for the Petitioner and Mr. M.Murugan, Learned Government Advocate appearing for the First and Second Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who is the owner of the land measuring to an extent of 66 2/3 cents comprised in S. No. 108/4, Thittai Village, Thanjavur Taluk, Thanjavur District, had entered into an agreement of sale with the Third Respondent on 15.09.2017, which has been registered as document No. 4384 of 2017 in the office of the First Respondent. Since the Third Respondent had not paid the entire amount of sale consideration as per agreement of sale, the Petitioner had filed a suit in O.S. No. 59 of 2019 on the file of



the Principal Subordinate Judge, Kumbakonam. In the decree dated 12.06.2019 passed in that suit, it was declared that the agreement of sale dated 15.09.2017 entered between the Petitioner and the Third Respondent stands rescinded as null and void and consequently, the Third Respondent was restrained by way of permanent injunction from enforcing that agreement of sale. The Petitioner claims to have made a representation dated 27.01.2020 to the First and Second Respondents to register the aforesaid decree, but no action in that regard had been taken. Aggrieved thereby, the Petitioner has filed this Writ Petition for a direction to the First and Second Respondents to register the judgment and decree dated 12.06.2019 in O.S. No. 59 of 2018 passed by the Principal Sub-Court, Kumbakonam, and delete the entries pertaining to the document, viz., Agreement of Sale dated 15.09.2017 registered as Document No. 4384 of 2017 in the office of the First Respondent declared as null and void, from the records of the First Respondent, pursuant to the representation dated 27.01.2020 made by the Petitioner.

3. Though the Petitioner has sought for relief for deleting the entries of registration of the Agreement of Sale dated 15.09.2017, Learned Counsel for the Petitioner submits that the Petitioner would be satisfied if the First and Second Respondents make necessary entries of endorsements relating to the transactions, which have been declared as null and void, in the books maintained under the provisions of the Registration Act, 1908, in terms of Section 31(2) of the Specific Relief Act, 1963, read with Rule 116-A of the Registration Rules.

4. Before proceeding further in this regard, it would be necessary to extract Section 31 of the Specific Relief Act, 1963, which reads as follows:-

"31. When cancellation may be ordered:-

(1) Any person against whom a written instrument is void or voidable, and who has reasonable apprehension that such instrument, if left outstanding may cause him serious injury, may sue to have it adjudged void or voidable; and the court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

(2) If the instrument has been registered under the Indian Registration Act, 1908 (16 of 1908), the court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation." (emphasis supplied on the underlining)

Further, Rule 116-A of the Registration Rules, reads as follows:-

"116-A. On the registration of a document, which revokes, or cancels or rectified an error in, or modifies the terms of, a document previously registered in the same class of

https://hcservices.cemg.gov.in/hcservices/ or of a return of lands acquired under the



Land Acquisition Act or of a document received and filed under Section 89 of the Act, vide rule 11 supra or on the receipt of a communication from a Revenue Officer or from a Court which intimates a similar revocation, cancellation, rectification or modification, a note shall be entered at foot of the entry of the latter document or communication as under:-

"This document/communication revokes (cancels, rectifies or modifies) the document No..... 20..... of copied/filed/the return filed at pages Volume of book/File Book/File Book No.1".

and at foot of the previous entry of the document previously registered or filed a note shall be entered as shown below:-

"This document/return has been revoked (cancelled, rectified or modified) by document No..... 20..... of copied/document filed/the return filed at pages volume of book/File Book/File Book No. 1".

(b) When the revocation, cancellation, rectification or modification is of a document relating to immovable property, a corresponding note shall also be entered in Index No. II and when it relates to the rectification of any particulars entered in Index I, II, III or IV, a note of rectification shall also be entered in the respective index against the particulars item rectified." (emphasis supplied on the underlining)

On a bare reading of the aforesaid statutory provisions, it is incumbent upon the Registering Authority to make endorsement of cancellation of the instrument contained in the books as well as in the other registers maintained in that regard by the Registration Department of the fact of that cancellation by the decree on receiving such communication from the Court concerned. Such consequential action required to be taken by the Registering Authority would not amount to registration of decree passed by the Court so as to attract the time period of limitation prescribed in Sections 23 and 25 of the Registration Act, 1908.

5. At the same time, it must be pointed out that the action required to be taken by the Registering Authority in terms of Section 31(2) of the Specific Relief Act, 1963, read with Rule 116-A of the Registration Rules, would arise only after receiving a communication in that regard from the Court, which passed that decree, as reflected in those statutory provisions. Accordingly, it is left open to the Petitioner to make necessary application before the Civil Court which passed the decree seeking direction to send a copy of the Judgment and Decree to the First and Second Respondents for taking necessary action in that regard. If such application is made, the Civil Court shall pass appropriate orders in that regard



expeditiously in accordance with law.

6. The Writ Petition is disposed on the aforesaid terms. No costs.

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Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

das/sj
To

1.The District Registrar,
District Registrar Office,
Tanjore District,
Tanjore.

2.The Sub-Registrar,
Sub-Registrar Office,
Tanjore District,
Tanjore.

Copy to
The Principal Subordinate Judge,
Kumbakonam.

+1 CC to M/s.P.SUBBARAJ, Advocate (SR-10382[F] dated 06/03/2020)

+1 CC to M/s.SPL.GP (SR-10545[F] dated 09/03/2020)

W.P. (MD)No. 4773 of 2020

Dated : 06.03.2020

KK/23.03.2020/ 4P- 6C