



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.15413 of 2020

and

W.M.P. (MD)No.12949 of 2020

Senthilselvi

... Petitioner

-Vs-

The Joint Sub-Registrar No.2,
Palani, Dindigul District.

... Respondent

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the respondent in the proceedings in Na.Ka.No.92/2 En.E.Sa.Pa.A/2020 dated 08.07.2020 and quash the same as illegal and consequently direct the respondent to remove the subsequent entries from the encumbrance certificate listed in the representation dated 19.06.2020 with respect of the property purchased by the petitioner vide the registered sale deed dated 18.11.1999 in Document No.1998/1999.

For Petitioner	: Mr.D.Venkatesh
For Respondent	: Mr.K.Sathiya Singh, Additional Government Pleader.

ORDER

The petitioner has come forward with this Writ Petition to quash the impugned order dated 08.07.2020 passed by the respondent as illegal and to direct the respondent to remove the subsequent entries from the encumbrance certificate listed in the representation dated 19.06.2020 with respect to the property purchased by the petitioner vide the registered sale deed dated 18.11.1999 in Document No.1998/1999.

2.By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.Mr.K.Sathiya Singh, learned Additional Government Pleader accepts notice on behalf of the respondent.

4.According to the petitioner, he has got favorable judgment and decree in O.S.No.35 of 2011 from the District Munsif Court, Dindigul District. The same has been affirmed in the appeal. Against that appeal



order, there is no further proceedings pending. Hence, the petitioner has sent a representation dated 19.06.2020 to the respondent to remove the entries made earlier and register the judgment and decree of the Civil Court. However, the respondent, by the impugned order dated 08.07.2020, has rejected the representation of the petitioner, stating that there is no power vested with her to cancel a registered document and directed the petitioner to approach the competent Court for getting appropriate relief. Hence, the petitioner has approached this Court seeking aforesaid relief.

5.The learned Additional Government Pleader appearing for the respondent would submit that the petitioner will have to obtain necessary judgment and decree for cancellation of the earlier deed and only thereafter, the Sub-Registrar can make necessary entries, including registration of the decree and judgment.

6.In reply, the petitioner has drawn the attention of this Court to the judgment and decree, where it has been categorically held by the Civil Court that the document signed after 18.11.1999 is not a valid one. That being the case, the case of the petitioner has got to be accepted.

7.Heard both sides. It is not in dispute that the petitioner is having a judgment and decree in her favour and that become final. The Lower Court has also held that the documents signed after 18.11.1999 cannot be treated as trustworthy and that it is void document. That being the case, the entries made in the encumbrance certificate and other records pertaining to the property in question are to be corrected and that the judgment and decree rendered in favour of the petitioner will have to be recorded. Hence, I find much force in the contention of the petitioner and therefore, allow this Writ Petition.

8.This Court makes it very clear that even though no counter has been filed in this Writ Petition, at the admission stage itself, detailed arguments have been advanced by the learned Additional Government Pleader and he has requested that his submission may be recorded and order may be passed in the Writ Petition.

9.Accordingly, this Writ Petition stands allowed as prayed for. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Joint Sub-Registrar No.2,
Palani, Dindigul District.

+1 CC to M/s.GP (SR-21441[F] dated 06/11/2020)

Order made in
W.P. (MD) No.15413 of 2020
05.11.2020

CK (CO)
TR(23.11.2020) 3P 3C