



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2020

CORAM

THE HONOURABLE **MR. JUSTICE S.S.SUNDAR**

W.P. (MD) No.1129 of 2014

and

M.P. (MD) No.1 of 2014

S.Anandhan

... Petitioner

Vs.

The District Registrar,
District Registration Office,
Karaikudi, Sivagangai District.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the proceedings of the respondent in Na.Ka.No.2123/B1/2013, dated 30.08.2013 and quash the same insofar as the direction contained in the last para of the order that not to make an entry of cancellation in the register.

For Petitioner

: Mr.R.V.Rajkumar

For Respondent

: Mr.A.Muthukaruppan,

Additional Government Pleader.

ORDER

This writ petition has been filed to quash the proceedings of the respondent, dated 30.08.2013 insofar as the direction contained in the last paragraph of the order regarding cancellation of the register of the document.

2.The petitioner states that he is the owner of the land in survey No.81/1 in Keeranipatti village, Thalakkavur Panchayat, Karaikudi Taluk. It is admitted that the petitioner's father was the original owner of the property, who was died intestate on 11.01.1996 leaving behind the petitioner's mother and petitioner's brothers and sisters. It is stated that the petitioner is entitle to equal share.

3.The grievance of the petitioner is that his elder brother executed power of attorney deed in favour of one Mariasoosai and sold the property through him, which is fraudulent. In the said circumstances, the petitioner approached the respondent for cancellation of the document. Relying upon a circular dated 03.11.2011, the petitioner submitted a representation before the second respondent. In the meanwhile, the petitioner and two of his brothers filed a writ petition in W.P.(MD)No.10844 of 2013 before this Court for issuing writ of mandamus directing the respondents to complete the enquiry. This Court directed the respondent to issue notice to all the parties concerned and complete the enquiry on the representation of the petitioner and to pass orders on merits,



within a period of eight weeks, by an order dated 04.07.2013. By the impugned order, the respondent held that the three documents executed by his brother is fraudulent transaction and that the registration of the said document is ordered to be cancelled. However, the cancellation of registration of document was withheld by the Deputy Registrar in the later portion of the order. In the said circumstances, this writ petition is filed questioning the last portion of the order on various grounds. The petitioner has not included the necessary and proper parties, namely the subsequent purchasers, who purchased the property in dispute from the petitioner's elder brother. The petitioner is not a party to the sale deed, which is alleged to have been executed by the elder brother through his power agent. Hence, the sale deed is not binding on the petitioner. If the petitioner establishes his right, the sale deeds will have no consequences affecting the petitioner's right. Merely because a sale deed has been executed by a third party without title and got it registered, it is not within the power of registering authority to unilaterally cancel the registration.

4. Having regard to the admitted facts, this Court is of the view that the petitioner can be directed to approach the Civil Court for appropriate remedy. Hence, this writ petition is dismissed. However, liberty is given to the petitioner to approach the Civil Court for appropriate relief. If any civil suit is filed by the petitioner or any other interested persons, the same shall be disposed of, uninfluenced by any of the observations rendered by the respondent in the impugned order. In view of the specific provision under Section 83 of the Registration Act, this order or the impugned order shall not stand in the way of the respondents, taking action under Section 83 of the Act. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

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/ /2020

Sub Assistant Registrar (CS)

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To

The District Registrar,
District Registration Office,
Karaikudi, Sivagangai District.

+1 CC to SPL.GP (SR-2341[F] dated 22/01/2020)
+1 CC to Mr.R.V.RAJKUMAR, Advocate (SR-2645[F] dated 23/01/2020)