

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2021

CORAM: JUSTICE N.SESHASAYEE

WP.No.2733 of 2021

P.Sanmugam

...Petitioner

-Vs-

1.The District Registrar,
Salam East,
Ammamet, Salem District.

2.The Sub-Registrar,
Dadagapatti Sub-Registrar Office,
Ammamet, Salem District-636 014.

3.Parvathi

4.Chandrasekar

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second respondent to delete the entry made in Doc No.7403/2018 dated 19.12.2018 by considering the petitioner's representation dated 08.12.2020.

For Petitioner : Mr.N.Vijaya Baskar

For Respondents : Mr.T.M.Pappiah, Spl.G.P
for RR1 and 2.

ORDER

The present petition is filed by the petitioner seeking a direction to the second respondent to delete the entry made in Doc No.7403/2018 dated 19.12.2018 by considering the petitioner's representation dated 08.12.2020.

2.Heard both sides.

3.The petitioner claims title to a certain property comprised in S.No.51/1N(part), at Masinaickenpatti Village, Pethikkadu, Salem District registered as Document No.6102 vide Sale Deed dated 18.11.2020.

4.Be that as it may, one Tamilarasi, the daughter of the third respondent has preferred a suit against one Parvathi, Palaniammal, Govindan and Mariappan, who were the predecessors- in- title to the said property in O.S.No.841 of 2013 before the III Additional District Munsif, Salem for declaration of title and injunction. This suit came to be dismissed on 05.02.2019. However, during the pendency of the said suit, the third

respondent, who is a party to the suit had executed a Settlement Deed dated 19.12.2018 in favour of her daughter Tamilarasi pertaining to the same property. The petitioner contends that the said document is a fraudulent one.

5.Heard, Mr.N.Vijaya Basker, learned counsel for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader appearing for the respondents 1 & 2.

6.The learned Special Government Pleader submitted that there is a bar for cancellation of the registered document for deleting entry pertaining to the registered document since that can be achieved only when the document itself is set aside, for which the Sub-Registrar does not have any power. However, the petitioner has preferred a representation for deleting the entry regarding the registered document from Book-I Register maintained by the Sub Registrar regarding all encumbrance over the property. The learned Special Government Pleader further submitted that it is beyond the power of the Sub Registrar to delete the entry regarding the registered document. The document itself cannot be

cancelled by the Sub Registrar and the power to do the same is vested with the civil Court. He also suggested that the petitioner has every option to register the civil Court's judgment and decree in O.S.No.841 of 2013. However, he submitted that an enquiry is still being made on the representation to ascertain the facts.

7.The learned counsel for the petitioner would now submit that even the fact that the third respondent is not a party to O.S.No.841 of 2013, one Tamilarasi, the daughter of the third respondent herein appeared to have automatically moved in creating document tactically. She did not produce this document in O.S.No.841 of 2013 and allowed the suit to be dismissed for default.

8.After careful consideration of the above submissions, this Court only directs the second respondent to hold an enquiry into the representation of the petitioner dated 08.12.2020 within a period of eight weeks from the date of receipt of a copy of this order.

9.This Writ Petition is disposed of, with the above direction. No costs.

26.02.2021

Index : Yes/No

Internet : Yes/No

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To

1.The District Registrar,
Salam East,
Ammamet, Salem District.

2.The Sub-Registrar,
Dadagapatti Sub-Registrar Office,
Ammamet, Salem District-636 014.



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