



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P. No.13564 of 2005

Mrs.S.Chenthamarai

... Petitioner

Vs

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

2.The Sub Registrar,
Sembiam Registration office,
Chennai-600 011.

3.N.Boopathy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 2nd respondent to delete the entries made in the encumbrance register in respect of the property bearing Door Plot No.56/E, Ram Nagar, Peravallore, Chennai-82 comprised in R.S.No.195, T.S.No,4/25, Block No.20 of Peravallore village, Perambur, Purasawakkam Taluk relating to Document No.5579/93 dated 12.11.1993 on the file of the 2nd respondent.

For Petitioner : Mr.T.S.Rajamohan

For R1 & R2 : Mr.Richardson Wilson
Government Advocate

For R3 : Not ready in notice

O R D E R

This Writ Petition is filed to issue a writ of mandamus, directing the second respondent to delete the entries made in the encumbrance register in respect of the property bearing Door Plot No.56/E, Ram Nagar, Peravallore, Chennai-82 comprised in R.S.No.195, T.S.No,4/25, Block No.20 of Peravallore village, Perambur, Purasawakkam Taluk relating to Document No.5579/93 dated 12.11.1993 on the file of the second respondent.



2. The petitioner is the absolute owner of the subject property, which was purchased from his vendor M/s. Ramaraj Estates represented by its managing partner by a registered sale deed dated 09.11.1993 vide registered document No.1110 of 1994. In pursuant to the sale deed, he also obtained patta in C.A.No.216/94-95, dated 29.05.1994. While being so, the petitioner's vendor's vendor settled the very same property in favour of one Boopathy by a registered settlement deed dated 12.11.1993 vide registered document No.5579 of 1993. Hence, the petitioner filed a suit in O.S.No.1945 of 1997 for declaration declaring that the settlement deed dated 12.11.1993 as null and void and the same was allowed and decreed in favour of the petitioner.

3. On the strength of the decree, the petitioner filed a petition before the second respondent to delete the entry made in encumbrance register in respect of the property comprised in R.S.No.195, T.S.No,4/25, Block No.20 of Peravallore village, Perambur, Purasawakkam Taluk, which was purchased by him. However, the second respondent rejected the request made by the petitioner in her communication dated 25.10.2004 stating that the entries made in the encumbrance register cannot be removed on the strength of the ex-parte judgement and decree and directed to cancel the ex-parte judgment and decree in the Court below. As contemplated under Section 89 of the Registration Act, on the strength of the Civil Court Decree, the authorities concerned liable to make endorsement. The decree is the decree unless it is set aside by the higher Court. Therefore, the decree obtained by the petitioner is valid under law, since no appeal has been filed by the executor or beneficiary of the settlement deed.

4. In view of the above, the second respondent is directed to consider the request made by the petitioner on production of judgment and decree in O.S.No.1945 of 1997 and pass orders on merits and in accordance with law, after issuance of notice to counter parties, within a period of four weeks from the date of receipt of a copy of this order.

5. With the above directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Lpp



To

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

2.The Sub Registrar,
Sembiam Registration office,
Chennai-600 011.

+lcc to Government Pleader Sr No.38089

W.P. No.13564 of 2005

KSM (CO)
PR (06/09/2021)