



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.3930 of 2021

and

W.M.P.Nos.4500 and 4503 of 2021

A.Rathnakumar

... Petitioner

vs.

- 1.The Inspector General of Registration
O/o The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028.
- 2.The Deputy Inspector General of Registration,
O/o The Deputy Inspector General of Registration,
No.312/ 3rd Floor,
District Collector Office Campus,
Salem - 636 001.
- 3.The District Registrar,
O/o The District Registrar,
No.1, Thiruvannamalai Road,
Dowdalabad,
Krishnagiri - 635 001.
- 4.The Sub Registrar,
O/o The Sub Registrar,
Co-op Spinning Mill Road, (Near Court)
Uthangarai Post and Taluk,
Krishnagiri - 635 207.

5.Suseela

... Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the orders passed by the District Registrar dated 16.07.2019 in its proceedings Na.Ka.No.3233/U/2017 which was confirmed by the Appellate Authority, Deputy Inspector General of Registration (Salem) vide its proceedings dated 07.09.2020 bearing No.3601/E2/2019 and to set aside the same and to direct the Respondents to register the



document pertaining to the schedule property in accordance with the law.

For Petitioner : Mr.K.V.Dhanapalan

WEB COPY

For R1 to R4 : Mr.Yogesh Kannadasan
Special Government Pleader

For R5 : Mr.R.Bharath Kumar

ORDER

This writ petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the orders passed by the District Registrar dated 16.07.2019 in its proceedings Na.Ka.No.3233/U/2017 which was confirmed by the Appellate Authority, Deputy Inspector General of Registration (Salem) vide its proceedings dated 07.09.2020 bearing No.3601/E2/2019 and to set aside the same and to direct the respondents 1 to 4 to register the document pertaining to the schedule property in accordance with law.

2. The case of the petitioner is that the property comprised in various survey numbers to an extent of 58.44 acres situated at Singarapettai and Theerthagiri Valasai (Hamlet), originally belong to one Rajikrishna Naidu. He left his legal heirs, viz., 1.Adilakshmi (his wife), 2.Saroja, 3.Suseelammal, 4.Saradhammal, 5.Kokila, 6.Narayanee, 7.Maragatham and 8.Nagarajan. However, the said Nagarajan obtained Legal Heirship Certificate No.15549/71 dated 06.10.1971 exclusively in his name leaving out other legal heirs. On the strength of the legal heirship certificate, all the ancestral properties are mutated in his name and he also obtained patta. He got married with one of his sister's daughter, viz., Vijayalakshmi. The said Nagarajan had only one son and he also died due to accident on 20.09.2003. From the year 2003 onwards, the said Nagarajan executed various deed of conveyance in respect of the subject properties in favour of third parties.

3. While being so, one of his sister and her legal heirs filed suits in O.S.No.6 of 2006 and O.S.No.154 of 2010 on the file of the learned Principal Subordinate Judge, Krishnagiri for partition in respect of the subject properties. The suit in O.S.No.154 of 2010 was decreed and allotted 1/14 shares in favour of the legal heirs of the said Saradha in the judgement and decree dated 26.08.2011 by the learned Principal Subordinate Judge, Krishnagiri.



4. Aggrieved by the same, the said Nagarajan preferred appeal suit in A.S.No.71 of 2012 on the file of the learned Principal District Judge, Krishnagiri. While pending the appeal suit, the said Nagarajan died on 30.12.2012. After his demise, his wife executed a Will in favour of her brothers, viz., Jayaraman and Purushothaman and registered the same vide Document No.4/2013, dated 04.02.2013 before the Sub Registrar, Virugambakkam in respect of the subject properties. In fact, in the said Will, she also mentioned about the judgement and decree passed in O.S.No.154 of 2010 and the pendency of the appeal suit in A.S.No.71 of 2012. Accordingly, she bequeath the property except the share 8/14 and also stated that if the appeal suit ended in their favour and the said property also bequeath in favour of Jayaraman and Purushothaman.

5. While pending the appeal suit, the said Jayaraman and Purushothaman executed a settlement deed in favour of their daughters and registered vide Document Nos. 4178/2013 and 974/2014. On the strength of the same, their daughters, viz., Shanthi and Rubhasri executed sale deed in favour of the petitioner herein and registered vide Document No. 908/16 in respect of part of the subject properties. Subsequently, they also executed sale deeds in respect of other part of the subject properties registered vide Document Nos.408/16, 1203/16 and 1501/16. On the strength of the said sale deed registered as Document No.1203/2016, the petitioner executed another sale deed in favour of one Shanthi, registered vide Document No.2107/2016.

6. Aggrieved by the same, the 5th respondent lodged compliant as if those sale deeds were fraudulently executed in favour of the petitioner herein. On receipt of the same, the 3rd respondent conducted enquiry and passed order on 16.07.2019 thereby declared that those documents are fraudulently executed in favour of the petitioner herein and directed the 4th respondent herein to make entry in the encumbrance of those properties. Since the 3rd respondent has no power to cancel those documents and also in this regard there are several suits are pending and as such, directed the parties concerned to approach the Civil Court for appropriate relief to cancel those documents.

7. While pending the said appeal, the 5th respondent also lodged complaint before the land grabbing cell, Singarapettai Police Station. On receipt of the same, the FIR has been registered in which the petitioner is arrayed as 10th accused in Crime No.71 of 2018. In fact, the petitioner filed Crl.O.P.No.10304 of 2018 before this Court to quash the FIR registered in Crime No.71 of 2018 for the offences under Sections 465, 468, 471 and 420 of IPC. This Court by an order dated 02.04.2018 observed that the vendors of the petitioner are



claiming title via., the Will executed by one Vijayalakshmi (wife of Nagarajan). Therefore, this is not a case of impersonation and this is purely title dispute, which could be settled only before the Civil Court. Therefore, the Inspector of Police, Singarapettai Police Station, Krishnagiri District, is directed to consider those factors while filing the charge sheet. However, the Inspector of Police, Singarapettai Police Station, Krishnagiri District, laid charge sheet and culminated into C.C.No.151 of 2019 on the file of the learned Judicial Magistrate, Uthangarai.

8. Thereafter, the petitioner also filed Crl.O.P.No.19106 of 2019 before this Court challenged the charge sheet in C.C.No.151 of 2019 on the file of the learned Judicial Magistrate, Uthangarai and this Court by an order dated 18.07.2019 granted interim stay of proceedings in C.C.No.151 of 2019 on the file of the learned Judicial Magistrate, Uthangarai only insofar as the petitioner is concerned and it is pending. Therefore, the sale deeds executed in favour of the petitioner could not be said as fraudulent one.

9. Admittedly, it is a title dispute between the legal heirs of the deceased Nagarajan and other legal heirs of his father viz., Rajikrishna Naidu in respect of the entire subject properties. That apart, the 5th respondent herein also filed suit in O.S.No.141 of 2019 on the file of the Sub Court, Uthangarai for declaration declaring that the sale deed executed in favour of the petitioner herein in respect of property comprised in S.No.74/2 and also for partition in respect of the said property and it is pending for adjudication. In the said suit, the 5th respondent also prayed for restraining the petitioner from further encumbering the subject property.

10. In view of the above, the impugned orders dated 16.07.2019 and 07.09.2020 passed by the 2nd and 3rd respondents cannot be sustained and they are liable to be set aside insofar as the observations alone as all the sale deeds executed in favour of the petitioner are fraudulent documents. As directed by the 2nd and 3rd respondents, the petitioner and the 5th respondent including other legal heirs are directed to workout their remedies before the Civil Court which are already pending in civil proceedings. The 4th respondent is directed to delete the entry made in the encumbrance. It is made clear that the petitioner shall not make further encumbrance in respect of subject properties. The concerned Civil Courts are directed to dispose the suits without influence of any of the observations made by this Court.

11. Accordingly, the writ petition is partly allowed.



Consequently, the connected miscellaneous petitions are closed.
No costs.

WEB COPY

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

dm

To

1. The Inspector General of Registration
O/o The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028.
2. The Deputy Inspector General of Registration,
O/o The Deputy Inspector General of Registration,
No.312/ 3rd Floor,
District Collector Office Campus,
Salem - 636 001.
3. The District Registrar,
O/o The District Registrar,
No.1, Thiruvannamalai Road,
Dowdalabad,
Krishnagiri - 635 001.
4. The Sub Registrar,
O/o The Sub Registrar,
Co-op Spinning Mill Road, (Near Court)
Uthangarai Post and Taluk,
Krishnagiri - 635 207.

+1cc to Mr.T.Fennwalter asso, Advocate, S.R.No.63601
+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.63677
+1cc to the Government Pleader, S.R.No.63443

W.P.No.3930 of 2021

SJ(CO)
CT 13/12/2021