

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 22050 of 2013

M.Prabhakaran

... Petitioner

Vs

- 1.The Inspector General of Registration,
Department of Registration,
100, Santhome High Road,
Foreshore Estate,
Chennai - 28.
- 2.The Deputy Inspector General of Registration,
395A, Nanjunndapuram Road,
Ramanathapuram,
Coimbatore - 641 045.
- 3.The District Registrar (Administration),
Officer of District Registrar,
Tiruppur - 641 602.
- 4.M.Eswaran
- 5.S.Ravichandran
- 6.K.Manickam
- 7.M.Sadasivam
- 8.S.Ramasamy

... Respondents

(R4 to R8 are impleaded vide order of this Court dated 01.12.2016 in M.P. No.1 of 2013 in W.P. No.22050 of 2013)

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to consider and dispose of petitioner representation dated 09.05.2013 in a timely manner.

For Petitioners : Mr. I.Abrar Me Abdullah

For Respondents 1-3 : Mr. P.P.Purushothaman
Government Advocate

4-8 : Not ready in notice

O R D E R

This Writ Petition has been filed for issuance of Writ of Mandamus directing the respondents to consider and dispose of petitioner representation dated 09.05.2013 in a timely manner.

2. Brief facts that are necessary for the disposal of the Writ Petition are as follows:

The petitioner purchased a property by a registered sale deed dated 25.03.1996. It is admitted that the petitioner had also executed deed of Power of Attorney on 04.06.1998. It is the case of the petitioner that the Power of Attorney Agent executed a sale deed and an agreement of sale in respect of the said property after the cancellation of the deed of Power of Attorney. It is also pleaded by the petitioner that a suit filed by him in O.S. No.147 of 1999 for declaration of title and consequential injunction against the purchaser of the property, was decreed by declaring the petitioner's title and by granting permanent injunction. The decree was also passed directing the defendants 1 and 2 to hand over the original registered sale deed dated 25.03.1996, to the petitioner. It is to be seen that the first defendant in the said suit is the Power of Attorney holder and other defendants are the alienees. Pursuant to the decree obtained by the petitioner, the petitioner approached the respondents and requested to cancel the registered documents which were executed by the Power of Attorney Agent of the petitioner. In the representation, it is stated that the petitioner is entitled to cancel the encumbrance as he is unable to avail bank loan or deal with the property in view of the encumbrance shown by the books maintained by the Registrar.

3. This Court is unable to accept the contentions of the petitioner since the petitioner had obtained the decree declaring his title and consequential permanent injunction was also granted in favour of the petitioner. In such circumstances, the petitioner's title is not affected by the earlier encumbrance which was on the basis of the sale deeds obtained from the Power of Attorney Agent of the petitioner. In view of the decree in the suit, the sale deeds executed by the Power of Attorney Agent becomes inoperative and they have become void and unenforcible. The registration of the sale deeds which are not binding on the petitioner though reflected as encumbrance, the subsequent decree is capable of neutralising the registration.

4. As a result, the Writ Petition is dismissed preserving liberty to the petitioner to approach the Registering Authority to register the decree in O.S. No.147 of 1999. Upon presenting the copy of decree which ended in favour of the petitioner, the

respondents 1 to 3 shall register the same or pass such other order as they deem fit, on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

bkn
To

- 1.The Inspector General of Registration,
Department of Registration,
100, Santhome High Road,
Foreshore Estate,
Chennai - 28.
- 2.The Deputy Inspector General of Registration,
395A, Nanjunndapuram Road,
Ramanathapuram,
Coimbatore - 641 045.
- 3.The District Registrar (Administration),
Officer of District Registrar,
Tiruppur - 641 602.

+1cc to the Government Pleader Sr.6302

W.P. No. 22050 of 2013

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srg 08/04/2021

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