

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 7213 of 2021

F.Shiloh Vijayakumar

.. Petitioner

Vs.

1. The Deputy Inspector General of Registration,
SIDCO Industrial Estate,
Electronics Complex,
3rd Block, 2nd Floor,
Guindy, Chennai - 600 032.
2. The District Registrar (Administration),
South Chennai,
District Registrar Office,
SIDCO Industrial Estate,
Electronics Complex,
3rd Block, 3rd Floor,
Guindy, Chennai - 600 032.
3. Venkata Uma Seshakumari
4. B.Vijayalakshmi
5. P.Durai
6. Navenetham

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the entire records on the file of the respondents culminating in the order passed by first respondent dated 10.10.2019 bearing Na.Ka.No.995/AA1/2019 in confirming the order passed by the second respondent bearing Na.Ka.No.1935/E2/2018 dated 13.02.2019 and quash the same and direct the respondents 1 and 2 to make appropriate entries in the Index in respect of the fraudulent Sale Deeds Document No.342 of 2007, Document No.2059 of 2007, Document No.3197 of 2007, Document No.200 of 2008 and Document No.953 of 2017 registered by the Respondents 3 to 6 in the office of the Sub Registrar, Poonamallee, as fraudulent documents.

For Petitioner : Mr. K.Sridhar

For Respondents 1&2 : Mr. T.M.Pappiah
Additional Government Pleader
3 to 6 : No appearance

O R D E R

This Writ Petition is filed to call for the entire records on the file of the respondents culminating in the order passed by first respondent dated 10.10.2019, and to quash the same and direct the respondents 1 and 2 to make appropriate entries in the Index in respect of the fraudulent Sale Deeds.

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

In the affidavit filed in support of this petition the petitioner stated that he own an extent of 1.29 Acres comprised in survey No.235, 236 and 238/1 of Udayavar Koil Village, Poonamallee Taluk, Tiruvallur District. The petitioner admitted that the he sold an extent of 92 Cents in Survey No.236 and 238/1 to one S.Kumar. It is case of the petitioner that the said S.Kumar, the purchaser, has not honoured the cheque which was handed over to the petitioner by way of sale consideration. It is under the said context, the petitioner filed a suit in O.S. No.1072 of 1996 against the said S.Kumar before the District Munsif Court, Poonamallee, for permanent injunction restraining the purchaser and his men from selling the remaining land in the total extent of the suit property namely 1.29 Acres. It is stated that the said S.Kumar started selling the properties on the basis of the sale deed obtained from the petitioner on 17.04.1996. It is further stated that the petitioner also executed a cancellation document cancelling the earlier deed of sale dated 17.04.1996. The suit filed by the petitioner in O.S. No.1072 of 1996 was decreed by the District Munsif Court, Poonamallee by a judgment and decree dated 05.08.1998.

3. The petitioner submits that five transactions were made by selling the property in plots by the said S.Kumar and his vendees between 2007 and 2017. Stating that all these subsequent alienations by S.Kumar and his vendee are fraudulent, the petitioner approached the second respondent, for cancellation of sale deeds in favour of the respondents 3 to 6. The second respondent passed an impugned order dated 13.02.2019 rejecting the petition filed by the petitioner on the ground that the petitioner should approach the Civil Court to get appropriate order or direction or decree to cancel the documents which were executed in favour of the respondents 3 to 6. The second respondent categorically held that he has no power or authority

to cancel the registered documents or to interfere with the title of individual based on the registered instruments. Since the second respondent finally observed that the petitioner, if aggrieved, can file an appeal before the first respondent within a period of sixty days, the petitioner preferred an appeal before the first respondent. The first respondent found that the properties conveyed under the documents which are executed in favour of respondents 3 to 6 are not the properties which are the subject matter of suit filed by the petitioner. Since the suit is filed for remaining extent than it was sold earlier by the petitioner, the order of the first respondent cannot be faulted.

4. Learned counsel appearing for the petitioner submitted that the impugned order passed by the first respondent is erroneous for the reason that there is no dispute with regard to the identity of properties and that the sale deeds challenged by the petitioner are in respect of the properties for which the petitioner obtained the decree for injunction. Having regard to the nature of pleadings and the decree granted in O.S. No.1072 of 1996, the submission of the petitioner's counsel cannot be accepted. This Court is unable to grant any relief to the petitioner as the request of the petitioner to cancel the documents which were registered earlier cannot be granted since the Civil Court alone is competent to decide the same.

5. It is unfortunate to note that the petitioner has not filed a suit so far declaring the status of the documents which are questioned by the petitioner before the Registering Authorities. Be that as it may, the petitioner is entitled to approach the Registering Authorities for registration of the decree which was obtained by the petitioner in O.S. No.1072 of 1996 on the file of District Court, Poonamallee. If there is any subsequent alienation in respect of the properties for which the suit was filed, registration of decree may help the petitioner to some extent

6. The Writ Petition is dismissed. No costs. However, the petitioner's liberty is preserved to approach the Civil Court for appropriate reliefs or to approach the Registering Authority to register the decree obtained by the petitioner as indicated above.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

bkn

To

1. The Deputy Inspector General of Registration,
SIDCO Industrial Estate,
Electronics Complex,
3rd Block, 2nd Floor,
Guindy, Chennai - 600 032.
2. The District Registrar (Administration),
South Chennai,
District Registrar Office,
SIDCO Industrial Estate,
Electronics Complex,
3rd Block, 3rd Floor,
Guindy, Chennai - 600 032.

+1cc to Mr.K.Sridhar, Advocate, S.R.No.18388.
+1cc to the Government Pleader, S.R.No.19120.

W.P. No. 7213 of 2021

PMK (CO)
CSR 15.03.2021



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