

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2021

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

WRIT PETITION NO.1149 OF 2018

T.Ranganathan

...Petitioner

-Vs-

1. The Inspector General of Registration
Santhome,
Chennai.

2. The Sub Registrar
Office of Sub Registrar,
Gingee,
Villupuram District.

3. K.Munusamy

4. V.Kuppan

5. V.K.Chinnapaiyan

...Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents 1 and 2 to strike out and cancel the sale deed, dated 27.10.2010 bearing Document No.421/2011 and sale deed, dated 15.11.2010 bearing Document No.2939 of 2010 on the file of the second respondent and remove the entries from the Encumbrance Certificate by considering the petitioner's representation dated 12.11.2017.

For Petitioner

: Mr.R.Rajarajan

For Respondents

: Mr.B.Kannan

Govt. Advocate for R1 and R2

O R D E R

The prayer sought for here in is for a Writ of Mandamus directing the respondents 1 and 2 to strike out and cancel the sale deed, dated 27.10.2010 bearing Document No.421/2011 and sale deed, dated 15.11.2010 bearing Document No.2939 of 2010 on the file of the second respondent and remove the entries from the Encumbrance Certificate by considering the petitioner's representation dated 12.11.2017.

2. It is the case of the petitioner that, the property admeasuring one acre comprising in..S.No.12/1 situated at Narasingarayanpettai village, Gingee Taluk, Villupuram District and various other properties belongs to the joint family of one Thoppalan, who is the father of the petitioner.

3. There was a partition in the family, pursuant to which, a property admeasuring one acre comprised in S.No.12/1 along with some other properties were allotted to the share of the said Thoppalan by virtue of a registered partition deed dated 28.07.2005, bearing Document No.1837 of 2005 on the file of the SRO in Schedule 'C' of the said partition deed. Therefore, the said Thoppalan, father of the petitioner had become absolute owner of the aforesaid property and he had been enjoying the same uninterruptedly.

4. When that being so, one Veerasamy and Sagadevan claimed right over the property comprised in S.No.12/1 and in this regard, they filed a suit in O.S.No.285 of 1997 on the file of the Principle District Munsif, Gingee, seeking for a permanent injunction. After contest, the suit was dismissed, where, the Civil Court has given a finding that, the suit property belongs to Thoppalan, a decree to that effect was passed on 16.03.2011.

5. As against the decree passed by the trial Court, Appeal was filed by the plaintiffs with huge delay in the Sub-Court, Gingee and the application to condone the delay itself was dismissed on 24.01.2012. Against which, they preferred the Civil Revision Petition in C.R.P.(NPD) No.1471 of 2012, which was also dismissed by this Court on 27.11.2014. Therefore, the Judgment and Decree made in O.S. No. 285 of 1997 become final and the title of the said Thoppalan, i.e., the father of the petitioner in respect of the property comprised in S.No.12/1 was also confirmed.

6. The said Thoppalan, out of love and affection had voluntarily and willingly executed a registered settlement deed dated 20.05.2015 which was registered as Document No.1194 of 2015 on the file of the SRO Gingee, where the property at S.No.12/1 was also described as Item No.1. Therefore, the petitioner has become sole and absolute owner of the said property.

7. When that being so, the legal heirs of the deceased Veerasamy, who was the original plaintiff in O.S.No.285 of 1997, who are also petitioners in C.R.P.(NPD) No.1471 of 2012, in collusion with the third respondent i.e., one K.Munusamy fraudulently registered two sale deeds in favour of the third respondent vide sale deed dated 27.10.2010, bearing Document No.421 of 2011 and the said sale deed dated 15.11.2010, bearing

Document No.2939 of 2010, as if, that a part of the property has been conveyed in the said survey number to and in favour of the third respondent. As against such illegal execution of sale deed, a complaint was given to initiate criminal action and FIR was lodged in Crime No. 284 of 2015 under various Sections of Indian Penal Code on the file of the Gingee Police State on 11.06.2015.

8. The petitioner has already given a representation to the first and second respondent requesting to cancel the sale deeds dated 27.10.2010 bearing Document No.421 of 2011 and sale deed dated 15.11.2010 bearing Document No.2939 of 2010 on the file of the second respondent.

9. However, the said request has not been considered by the second respondent and the sale deed in question, which according to the petitioner had been fraudulently executed in favour of the third respondent have not been cancelled, therefore, the petitioner has approached this Court by filing the present Writ Petition with the aforesaid prayer.

10. Heard Mr.R.Rajaraman, learned counsel appearing for the petitioner who has reiterated the aforesaid and seeks indulgence of this Court.

11. However, Mr.B.Kannan, learned Government Advocate appearing for the respondents 1 and 2 has submitted that, if at all, any fraudulent sale has been effected and the sale has been registered and the document has been released, it cannot be cancelled at the instance of the petitioner or any third party and in this regard, the parties can be relegated to the Civil Court for appropriate relief. However, insofar as the representation given by the petitioner is concerned, it can be treated only as a complaint and accordingly, an enquiry can be conducted by the District Registrar under the provisions of the Registration Act, for the purpose of finding out the truth as to whether any criminal action has been committed by any of the officials of the Registration Department only for the purpose of initiation of criminal proceedings or penal action.

12. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

13. As has been rightly pointed out by the learned Government Advocate appearing for the official respondents, the sale deed once registered cannot be cancelled by the very same registering authority and in this regard, if at all, the petitioner feels that, it is a fraudulent transaction, in order to declare the sale deed as null and void, the petitioner has to approach the Civil Court by filing appropriate Civil Suit.

14. However insofar as the alleged fraud committed by any third parties in the Registration Office of the second respondent in registering the documents in question, in respect of the same, the petitioner's representation can be treated as a complaint and accordingly an enquiry can be conducted by the District Registrar under Section 83/86 of the Registration Act and ultimately, if any truth is found out with regard to the illegality if anything committed in this regard, criminal action can be initiated in accordance with law.

15. In that view of the matter, this Court is inclined to dispose of this Writ Petition with the following orders:

"(i) That the petitioner can approach the Civil Court for redressal of his grievance with regard to the cancellation of the sale deeds dated 27.10.2010 and 15.11.2010 in Document Nos.421 of 2011 and 2839 of 2010 on the file of the second respondent.

(ii) However, the petitioner's representation given in this regard dated 12.11.2017, shall be considered by the respondents, especially the Sub Registrar, Office of the Sub Registrar, Gingee, Villupuram District and in this regard it can be forwarded to the District Registrar to conduct an enquiry within the meaning of Section 83 of the Registration Act and depending upon the report to be submitted in this regard if need arises action to initiate criminal action/proceedings can be issued on the erring officials of the registration department with regard to the document in question registered.

(iii) The needful as indicated above shall be undertaken by the Registering Department within a period of three months from the date of receipt of the copy of this order."

16. With these directions, this Writ Petition is disposed of. However, there shall be no order as to costs.

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Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vji / tsvn

To

1. The Inspector General of Registration
Santhome,
Chennai.
2. The Sub Registrar
Office of Sub Registrar,
Gingee,
Villupuram District.

+1 cc to M/s.R.Rajaraman, Advocate Sr.No.24955

W.P.No.1149 of 2018

RLD (CO)
KKV/21/06/2021



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