

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 26.04.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.22030 of 2018 and
W.M.P.No.25825 of 2018

Jothi

... Petitioner

Vs.

1. The District Registrar (Admin)
Chidambaram,
Cuddalore District.

2. The Joint Sub-Registrar
District Registrar Office,
Chidambaram.

3. G.Rajamanickam

4. Sudan

... Respondents

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus, to cancel the registration of the second settlement deed, dated 09.10.2015, registered as Document No.3985 of 2015 by the second respondent.

For Petitioner : Mr.A.E.Ravi Chandran

For Respondents 1 & 2 : Mr.P.Purushothaman
Government Advocate

For Respondents 3 & 4 : No appearance

ORDER

The prayer sought for herein is for a writ of mandamus to cancel the registration of the second settlement deed, dated 09.10.2015, registered as Document No.3985 of 2015 by the second respondent.

2. The properties at Re-Survey No.6 at Thiruvakulam Village, Chidambaram Taluka Cuddalore District is the subject matter herein, which belongs to originally the third respondent G.Rajamanickam, who is none other than the husband of the petitioner. It is to be noted that, the petitioner is the second wife of the third respondent. Accordingly, the third respondent has settled the aforesaid property by way of settlement deed on 16.07.2004 to and in favour of the petitioner, which was

registered as Document No.2416 of 2004 at the Registration Office.

3. Subsequently, it seems that, there has been a misunderstanding between the petitioner and the third respondent, with the result, they got separated. In that circumstances, the third respondent seems to have cancelled the settlement deed already made in favour of the petitioner by cancellation deed, dated 28.05.2009, which was registered as Doc.No.2188 of 2009 on the same Registration Office.

4. Therefore, in order to cancel or quash the document of cancellation of settlement, dated 28.05.2009, the petitioner has approached this Court by filing a writ petition in W.No.12620 of 2009. The said writ petition was allowed by this Court, by order dated 20.09.2013 and the copy of the order of this Court has also been produced before the Registration Department for recording the same.

5. Despite these factors, once again the third respondent Rajamanickam has made a further settlement and prepared a deed dated 09.10.2015 in favour of the fourth respondent and the same was registered as Document No.3985 of 2015 on the file of the second respondent. Though the fourth respondent is none other than the son of the third respondent born out of the first wife, such kind of settlement could not have been made by the third respondent, in view of the categorical order passed by this Court in W.P.No.12620 of 2009 as stated supra.

6. Therefore, the said registration of further settlement made on 09.10.2015 by the third respondent to and in favour of the fourth respondent is a fraudulent or illegal document, therefore, the same should have been cancelled and it could not have been registered by the second respondent.

7. Therefore, in order to cancel the same and to conduct an enquiry, the petitioner had given a representation to the first respondent on 23.03.2018. However, the same has not been considered and in fact, a cryptic communication has been sent on 28.03.2018 to the petitioner that, as per the circular issued by the I.G. of Registration, the document registered i.e., the settlement deed made in favour of the fourth respondent by the third respondent cannot be cancelled. Therefore, aggrieved over the same, the petitioner has approached this Court by filing the present writ petition with the aforesaid prayer.

8. Heard Mr.A.E.Ravi Chandran, learned counsel appearing for the petitioner, who, having reiterated the aforesaid facts seeks indulgence of this Court to give a suitable direction to the first and second respondents to conduct an enquiry and take

necessary steps to settle the things by cancelling the illegal document registered in this regard as stated supra.

9. Heard Mr.P.Purushothaman, learned Government Advocate appearing for respondents 1 and 2 who would submit that, if at all this Court has already given an order, whereby the cancellation of settlement deed made in favour of the petitioner by the third respondent itself was quashed and the writ petition was allowed, thereby the settlement made in favour of the petitioner has been confirmed, the third respondent may not have any right to resettle the property to and in favour of the fourth respondent. Therefore, in this regard, the document registered with regard to the alleged settlement made by the third respondent in favour of the fourth respondent prima facie can be found out whether any illegality was committed therein and in this regard enquiry can be conducted by the first respondent, District Registrar (Admin), Chidambaram, Cuddalore District under the provisions of the Registration Act and accordingly, a suitable decision would be taken thereon within a time frame.

10. There is no representation for third and fourth respondents.

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

12. As has been rightly pointed out by the learned counsel appearing for the petitioner that, the third respondent already settled the property in favour of the petitioner, who is none other than the wife of the third respondent as early as 16.07.2004, the moment the settlement has been registered, the property in question has become the property of the petitioner.

13. When that being so, prima facie, it seems that, he has cancelled the said settlement by cancellation deed dated 28.05.2009, therefore, that was under challenge before this Court in the aforesaid writ petition which was also allowed by this Court, by order dated 20.09.2013.

14. Therefore, the settlement made by the third respondent in favour of the petitioner on 16.07.2004 has become confirmed and the property in question is the absolute property of the petitioner. When that being so, the third respondent once again cannot make any attempt to settle the very same property to and in favour of the fourth respondent even though the fourth respondent is the son of the third respondent born out of the first wife.

15. Therefore, such kind of settlement made by the third respondent in favour of the fourth respondent cannot be said to be a legally acceptable conveyance and therefore, the same ought not to have been registered by the Registration Authority. However, since the same has been registered and a registration document number also has been given, in order to cancel the same, after conducting an enquiry in this regard, the petitioner since has given a representation on 23.03.2018, the same can very well be directed to be considered and an enquiry to that effect can be conducted by the first respondent to unearth the truth and to rectify the same.

16. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order:

That there shall be a direction to the first respondent to take up the complaint given by the petitioner dated 23.03.2018 and conduct an enquiry in this regard under the provisions of the Registration Act, by giving notices to the petitioner as well as the private respondents herein and accordingly find out the truth and pass final orders thereon within a period of three months from the date of receipt of a copy of this order.

17. With this direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

Sgl/tsvn
To

1. The District Registrar (Admin)
Chidambaram,
Cuddalore District.
2. The Joint Sub-Registrar
District Registrar Office,
Chidambaram.

+1cc to Mr. A.E.Ravi Chandran, Advocate SR.No. 25726
+1 cc to Government Pleader Sr.No. 25670

W.P.No.22030 of 2018

AJB (CO)
A.SK(22.06.2021)