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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.NO.13974 OF 2021

R.Mani

... Petitioner

-Vs-

1. The District Registrar,
The District Registrar's Office,
Ariyalur,
Ariyalur District.

2. The Sub-Registrar,
The Sub-Registrar's Office,
Taluk Office Compound,
Athoor Road, Perambalur,
Perambalur District.

3. S.Sivakumar

... Respondents

PRAYER:-

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the first and second respondents herein to remove the fraudulent encumbrance which has been created by third respondent pertaining to petitioner's property situated at Perambalur District, Ariyalur Registration District, Perambalur Sub-Registration District, Perambalur Taluk, Nochiyam village, Ayanunjai S.F.No.414/2, measuring Acre 0.74 cents, New S.F.No.414/2, Patta No.692, on the basis of decree and judgment made in O.S.No.494 of 2012 on the file of the Additional District Munsif, Perambalur, dated 09.09.2019 as well as in the light of petitioner's representation, dated 26.03.2020 within a stipulated period as may be fixed by this Court.

For Petitioner : Mr.L.P.Balajiram

For Respondents : Mr.Yogesh Kannadasan
Government Advocate for R1 and R2



O R D E R

The prayer sought for herein is for a writ of mandamus, directing the first and second respondents herein to remove the fraudulent encumbrance which has been created by third respondent pertaining to petitioner's property situated at Perambalur District, Ariyalur Registration District, Perambalur Sub-Registration District, Perambalur Taluk, Nochiyam village, Ayan punjai S.F.No.414/2, measuring Acre 0.74 cents, New S.F.No.414/2, Patta No.692, on the basis of decree and judgment made in O.S.No.494 of 2012 on the file of the Additional District Munsif, Perambalur, dated 09.09.2019 as well as in the light of petitioner's representation, dated 26.03.2020.

2. The case of the petitioner is that, insofar as the property, i.e., punja land at S.No.414/2 to the extent of 0.74 cents is concerned, it is claimed by the petitioner that, it is the exclusive property of the petitioner and in respect of the same, separate patta in Patta No.692 had been issued in favour of the petitioner, as the petitioner claimed to have ownership of the property by way of the sale deed, dated 18.11.2004.

3. However, it is the further case of the petitioner that, the third respondent was managed to get a sale deed registered in respect of a part of the property, i.e., to the extent of 0.37 cents on 04.06.2012 and the said sale deed also having been registered in the respondent Registrar Office, the third respondent had filed a suit also before the Additional District Munsif Court, Perambalur in O.S.No.494 of 2012 filed against the petitioner, seeking for a permanent injunction against the petitioner

4. The suit was hotly contested by the petitioner and ultimately on 09.09.2019, the suit filed by the third respondent was dismissed on the ground that, the petitioner is entitled to be in possession of the property in question.

5. Therefore in this context, it is the further case of the petitioner that, the Civil Court while dismissing the suit filed by the third respondent had passed the Judgment and Decree only after considering the title over the property which is in favour of the petitioner. Therefore based on the said Civil Court decree as a copy of which also has been submitted on 04.03.2020 to the respondent Registrar Office, the petitioner seek for cancellation of the sale deed made and got registered by the third respondent on 04.06.2012 and in this regard, he has given a representation on 26.03.2020 to the second respondent and the same since has not been so far considered, he has approached this Court by filing the present writ petition.



6. Reiterating the aforesaid facts, the petitioner seeks indulgence of this Court to issue a direction to the second respondent, to consider the request of the petitioner and do the needful as requested therein.

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7. I have heard Mr.Yogesh Kannadasan, learned Government Advocate appearing for the official respondents, i.e., R1 and R2. In view of the order going to be passed herein, notice to the third respondent is hereby dispensed with.

8. The learned Government Advocate appearing for the official respondents would submit that, if at all the petitioner has got a favourable Judgment and Decree from the Civil Court in the suit filed by the third respondent and as against which, there is no further appeal filed by the third respondent and a copy of the Judgment and Decree as claimed by the petitioner had already been submitted to the second respondent, the same would be considered and accordingly, as per the circular issued in this regard by the I.G. of Registration in consonance with Section 23 of the Registration Act, the said Judgment and Decree obtained in favour of the petitioner would be recorded or registered in the concerned register of the second respondent, beyond which, the further relief sought for by the petitioner to cancel the sale deed executed by the third respondent registered in the second respondent office as Document No.3611 of 2012, dated 04.06.2012 cannot be granted as such power is not vested with the second respondent.

9. Therefore the learned counsel for the Government would submit that to the limited extent of registering or entering the Judgment and Decree obtained by the petitioner in his favour, certainly the representation of the petitioner, dated 26.03.2020 would be considered and would be acted upon by the second respondent, within a time frame that may be stipulated by this Court.

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

11. Though such a larger prayer has been sought for by the petitioner to consider the request of the petitioner, dated 26.03.2020, for the purpose of cancelling the sale deed, dated 04.06.2012 executed by the third respondent and registered in the second respondent office, in view of the stand taken by the learned Government Advocate for the official respondents, ofcourse on the basis of the legal position which is prevailing now, the learned counsel appearing for the petitioner also now confined with his prayer that, if a direction is given to the second respondent, to register the Judgment and Decree obtained



by the petitioner in favour of him in O.S.No.494 of 2012 as referred to above in the concerned register within a time frame, the petitioner would be satisfied.

12. In view of the said submissions made by the learned counsel appearing for both sides and having considered the factual matrix, this Court is inclined to dispose this writ petition with the following order :

"The second respondent is hereby directed to consider the representation of the petitioner, dated 26.03.2020 and accordingly, register the Judgment and Decree obtained by the petitioner in O.S.No.494 of 2012 on the file of the Additional District Munsif Court, Perambalur in the concerned Register and the needful shall be undertaken as indicated above by the second respondent within a period of six weeks from the date of receipt of a copy of this order.

13. With these direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

tsvn

To

1. The District Registrar,
The District Registrar's Office,
Ariyalur, Ariyalur District.
2. The Sub-Registrar,
The Sub-Registrar's Office,
Taluk Office Compound,
Athoor Road, Perambalur,
Perambalur District.

+1cc to Mr.R.Sundar, Advocate, S.R.No.31685

+1cc to the Special Government Pleader, S.R.No.32141

W.P.NO.13974 OF 2021

RP(CO)

PBS/10/08/2021