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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.12.2021

PRONOUNCED ON : 17.12.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.15850 of 2021
and W.M.P.No.16733 of 2021

S.Prakash

... Petitioner

-Vs-

1. The District Registrar,
No.1/3, Vignesh Complex, Ground Floor,
Pn Road, Opposite Sivan Theatre, Postal Colony,
Thirupur - 641 602.

2. The Sub-Registrar,
Registration Office,
154/8 Kangeyam Road,
Pallakkattupudur, Nallur - 641606.

3. S.Natarajan

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records in Na.Ka.No.670/Aa1/2020, dated 24.06.2021 on the file of the first respondent and quash the same as illegal and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.T.Shanmugarajeswaran
For R1 and R2 : Mr.Yogesh Kannadasan
Special Government Pleader
For R3 : Mr.N.Manoharan

ORDER

This Writ Petition has been filed for the issuance of Writ of Certiorari, calling for the records in Na.Ka.No.670/Aa1/2020, dated 24.06.2021 on the file of the first respondent and quash the same as illegal and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.



2.The case of the petitioner is that the property comprised in Survey No.67/1, ad-measuring 2.33 acres situated at Nallur Village, Tirupur South Taluk, Tirupur District was originally purchased by one Sriharan from one Neelakandan by the registered sale deed, dated 23.01.1997, registered vide Document No.124 of 1997. After verifying all the parent documents, encumbrance certificate, patta etc, the petitioner purchased the said property from the said Sriharan and presented the same for registration on 23.12.2019 along with all the parent documents, encumbrance certificate, patta etc,. The second respondent refused to register the same on the objections received from the third respondent. The second respondent passed an order on 22.01.2020 thereby, returned the sale deed and refused to register the same for the reason that there is a title dispute in respect of the subject property and already there was a direction to approach the Civil Court for appropriate relief. Aggrieved by the same, the petitioner preferred an appeal before the first respondent and the same was also dismissed and confirmed the order passed by the second respondent.

3.The learned counsel for the petitioner would submit that the third respondent is a third party and he has not submitted any sufficient documents to prove his title in respect of the subject property. In fact, the third respondent filed a petition to include his name in Patta No.2620 before the Revenue Divisional Officer and same was also dismissed. On the report received from the Village Administrative Officer, the Revenue Divisional Officer, concluded that the subject property belongs to the petitioner's vendor i.e. Sriharan and he is the absolute owner and has title over the subject property. The third respondent's father had no title over the subject property and he himself created a forged Lease Agreements and executed the settlement deed in favour of the third respondent, dated 26.10.2005 registered vide Document No.2746 of 2005. On the strength of the said settlement deed, the third respondent entered into an agreement for sale, dated 03.11.2005, registered vide Document No.4165 of 2005 and Document No.4221 of 2005, dated 07.11.2005 with third party buyers in respect of the subject property.

4.The said settlement deed, dated 26.10.2005 was subsequently cancelled by the third respondent's father by execution of cancellation of settlement deed, dated 11.01.2007, registered vide Document No.116 of 2007. Therefore, the third respondent has absolutely no title or right over the property to object any registration in respect of the subject property. Without considering these aspects, the first respondent



mechanically dismissed the appeal by the impugned order dated 24.06.2021. The first respondent rejected the appeal only on the ground that the third respondent had title over the property by virtue of the settlement deed, dated 26.10.2005 and subsequently he also executed an agreements for sale to the third parties, registered vide Document Nos.4165 of 2005 and 4221 of 2005. The said settlement deed was subsequently cancelled on 11.01.2007. The third respondent with malafide intention to grab the property has created documents without any parent documents.

5.In fact, the petitioner had already filed a writ petition in W.P.No.33936 of 2019, forbearing the second respondent from registering any documents in respect of the subject property, till the final disposal of the patta appeal pending before the revenue authorities. Subsequently, it was dismissed as withdrawn.

6.The third respondent also purchased another property which belongs to the temple, by the name of Arulmigu Mariamman Vinayagar Thirukoilkal, Pichchampalayam. Therefore, the third respondent is only a land grabber and made false claim over the property.

7.Per contra, the third respondent filed counter and Mr.N.Manoharan, learned counsel for the third respondent submitted that the third respondent's father became the absolute owner of the subject property. Thereafter, he executed a settlement deed in favour of the third respondent on 26.10.2005. Thereafter, the third respondent is in possession and enjoyment of the same and mutated all the revenue records in his name. However, one S.Sureshkumar made an attempt to interfere with the peaceful possession and enjoyment of the subject property. On verification, the third respondent came to understand that his father unilaterally cancelled the settlement deed, dated 26.10.2005 by way of cancellation of settlement deed, dated 11.01.2007, registered vide Document No.116 of 2007. Thereafter, the third respondent also came to understand that his name was removed in the patta and included the petitioner's vendor's name in the patta. Thereafter, the third respondent filed a suit in O.S.No.204 of 2021, challenging the unilateral cancellation of settlement deed on the file of the Principal District Munsif Court, Tiruppur for declaration and injunction and also for mandatory injunction. The said suit is pending for adjudication.

8.While being so, the petitioner's vendor executed a



sale deed in favour of the petitioner on 23.12.2019 and presented for registration before the second respondent. In view of the above, the second respondent rightly rejected the sale deed without registration. He further submitted that the petitioner did not even challenge the order passed by the second respondent and only challenged the order passed by the first respondent. Therefore, the order passed by the second respondent had attained its finality. The first and second respondents categorically concluded that there is a serious title dispute in respect of the subject property and as such the Civil Court is competent to decide the issue and the first respondent rightly rejected the appeal filed by the petitioner. As against the refusal of patta passed by the Revenue Divisional Officer, Tiruppur, the third respondent filed an appeal on 24.11.2021 before the District Revenue Officer, Tiruppur and it is pending for adjudication.

9. Per contra, the first respondent filed counter and Mr. Yogesh Kannadasan, learned Special Government Pleader, submitted that the subject property was registered in Document No. 2272 of 1925 in favour of one Venudaiya Gounder and after his demise his legal heirs sold the same to one Neelakandan in the year 1995, registered vide Document No. 1303 of 1995. Thereafter, it was purchased by the petitioner's vendor one Sriharan, registered vide Document No. 124 of 1997. Thereafter, the petitioner purchased the same and presented the sale deed for registration. In respect of the patta for the subject property, the Tahsildar, Tiruppur South Taluk, by the proceedings dated 28.05.2019, removed the name of the third respondent and included the name of the petitioner's vendor in the patta. Aggrieved by the same, the third respondent filed an appeal before the Revenue Divisional Officer, Tiruppur and by the proceedings dated 03.03.2020, rejected the appeal filed by the third respondent. Further revealed that the father of the third respondent without having any title over the subject property, executed a lease deed in favour of one Subramanian vide Document No. 2047 of 1995. However, without even cancelling the said deed, he executed a sale deed in favour of his son i.e. the third respondent herein. Subsequently, it was cancelled by the cancellation of settlement deed, vide Document No. 116 of 2007. On the strength of the said settlement deed, dated 26.10.2005, the third respondent executed an agreement for sale in favour of the third parties, registered vide Document Nos. 4165 of 2005 and 4221 of 2005. Till the agreements for sale are alive and not yet cancelled. Therefore, it is not possible to register the sale deed presented for registration.



10.Heard Mr.T.Shanmugarajeswaran, learned counsel appearing for the petitioner, Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.N.Manoharan, learned counsel appearing for the third respondent.

11.The subject property originally belong to one Venudaiya Gounder, registered vide Document No.2272 of 1925. After his demise, the legal heirs sold the subject property in favour of one Neelakandan, registered vide Document No.1303 of 1925. Thereafter, the petitioner's vendor one Sriharan purchased the subject property by the registered sale deed, dated 23.01.1997 registered vide Document No.124 of 1997. The petitioner's vendor filed a petition before the Tahsildar, Tiruppur South Taluk to remove the third respondent's name in the patta and by the proceedings dated 28.05.2019 in Na.Ka.No.1321/2019/A2, the Tahsildar, Tiruppur South Taluk, removed the name of the third respondent and included the name of the petitioner's vendor in the patta. Aggrieved by the same, the third respondent filed an appeal before the Revenue Divisional Officer, Tiruppur and the same was also rejected by an order dated 03.03.2020 in Na.Ka.No.1833/2019/A2. Though, the third respondent filed revision before the District Revenue Officer, as against the order passed by the Revenue Divisional Officer, no order has been passed even till today.

12.The third respondent claimed the subject property through the settlement deed executed by his father, dated 26.10.2005 registered vide Document No.2746 of 2005. In fact, his father claimed title over the property from his ancestors. He executed a lease agreement in favour of one Subramanian that too without title over the subject property and registered vide Document No.2047 of 1995. Thereafter, without cancelling the said lease agreement, he executed a sale deed in favour of his son i.e. the third respondent herein. In fact, the third respondent's father executed a cancellation of settlement deed on 11.01.2007 registered vide Document No.116 of 2007. Even then, the third respondent executed agreements for sale in favour of the third parties, registered vide Document Nos.4165 of 2005 and 4221 of 2005. Therefore, these agreements are void and non-est in the eye of law. That apart, the third respondent now filed a suit, challenging the cancellation of settlement deed executed by his father in O.S.No.204 of 2021 and it is pending on the file of the Principal District Munsif Court, Tiruppur. Even assuming that the agreements for sale executed by the third respondent is valid one, it is not an impediment for the second respondent to register the sale deed, if an



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agreement for sale is registered in respect of immovable property, the same will not be a bar for the owner of the property to effect subsequent transfers in respect of the same property. The Registrar has no right to refuse to register the document, except the documents relating to immovable properties mentioned in Section 22-A of the Tamil Nadu Registration Act and as contemplated under Rule 162 of the Registration Rules.

13. Therefore, it cannot be said that merely because agreement for sale is registered without any title over the property, such agreement is void, subsequent transfer is prohibited and cannot be registered. Therefore, the second respondent has no right to refuse to register the subsequent document on the basis of that agreement for sale was already registered in respect of the very same property. It is also noted that the patta issued in favour of the third respondent is also now cancelled and confirmed by the Revenue Divisional Officer. Thus, the vendor of the petitioner has title over the property and he can execute a sale deed. The petitioner is being the purchaser of the said property, the sale deed can be registered and the mere pendency of the agreement for sale is not an impediment to register the same.

14. The learned counsel for the third respondent contented that the petitioner failed to challenge the refusal order passed by the second respondent and as such it had attained its finality. Once, the petitioner filed an appeal as against the order passed by the second respondent and the same was confirmed by the first respondent, the petitioner need not challenge the order passed by the second respondent. Hence, the impugned order in Na.Ka.No.670/Aa1/2020, dated 24.06.2021 is hereby quashed.

15. The petitioner is directed to re-present the sale deed for registration and the second respondent is directed to register and release the same if otherwise in order.

16. With the above directions, this writ petition stands allowed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The District Registrar,
No.1/3, Vignesh Complex, Ground Floor,
Pn Road, Opposite Sivan Theatre, Postal Colony,
Thirupur - 641 602.

2. The Sub-Registrar,
Registration Office,
154/8 Kangeyam Road,
Pallakkattupudur, Nallur - 641606.

+1cc to Mr.T.Shanmugarajeswaran, Advocate SR.No.67751
+1cc to Mr.N.Manokaran, Advocate SR.No.68106
+1cc to the Government Pleader SR.No.68647

W.P.No.15850 of 2021

GJ(CO)
GN(03/01/2022)