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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No.18638 of 2021

Raman

... Petitioner

-Vs-

1. The Inspector General of Registration,
No.100, Santhom High Road,
Chennai - 600 028.
2. The District Registrar,
Thiruvannamalai,
Thiruvannamalai District-606 604.
3. The Sub Registrar Joint-II,
Thiruvannamalai Taluk,
Thiruvannamalai District-606 601.

... Respondents

PRAYER: This Petition is filed under Article 226 of the Constitution of India, praying for the issue a Writ of Mandamus, directing the respondents to consider the representation of the petitioner dated 13.07.2021 and to take appropriate action for the fraudulent registration and to cancel the sale deed executed in the sale deed No.583/2001 and 3629/2005 and pass orders accordingly.

For Petitioner : Mr.K. Kathiresan

For Respondent-1 : Mr. Yogesh Kannadasan
(Government Advocate)

O R D E R

The relief sought for in this writ petition is for a direction to the respondents to consider the representation of the petitioner dated 13.07.2021 and to take appropriate action for the fraudulent registration and to cancel the sale deed executed in the sale deed No.583/2001 and 3629/2005 and pass orders accordingly.



2.The learned counsel for the petitioner would submit that the property in Thiruvannamalai Circle, Kosalai Village, Ayan Punjai Survey No.33/4A measuring Acre 1.23 cents, Punjai Survey No.36/3, measuring acre 2.58 cents, Punjai Survey No.36/5 measuring 0.38 cents, Punjai Survey No.36/4, measuring Acre 1.66 cents for a total of Acre 5.85 cents of land was originally inherited by the grand father of the petitioner namely late Mottayan. After the demise of Mottayan, his legal heirs, namely Periyavedi @ Elikutty-1 who is the father of the petitioner and Chinnavedichi @ Chinnavedi-2 have been enjoying the said property among themselves. Later on both Periyavedi @ Elikutty-1 and Chinnavedichi @ Chinnavedi-2 have shared their properties through oral Partition. Thus, the land comprised in Punjai Survey No.33/4, measuring 0.61 1/2 cents, Punjai Survey No.36/4, measuring 0.93 cents, Punjai Survey No.36/5, measuring 0.27 cents, Punjai Survey No.36/3, measuring 1 acre in all total measuring Acre 2.81 1/2 cents of land has been enjoyed by Periyavedi without any encumbrance and hindrance. While being so, the father of the petitioner, namely, Periyavedi died without making any title deed regarding the shares to the above said property and after his death, the petitioner and his brothers namely, Mr. Durai and Mr.Ayyer, became the legal heirs and they were enjoying the aforesaid properties jointly without any hindrance. Under such circumstances, the petitioner and his brothers made a verbal subdivision regarding the sharing of the property with the aforesaid survey number around 50 years ago. In the result of the verbal subdivision, in the total extent of Acre 2.82 cents of the land, the share of 1/3rd ie.0.93 cents was allotted to the petitioner. After allotment of 1/3rd share to the petitioner in the property, he is in possession and enjoyment of the property without any interruption and encumbrance. While being so, on 28.05.2021, more than 20 persons came to the petitioner and argued with him stating that they have the right over the aforesaid property. Thereafter, the petitioner has taken Encumbrance Certificate regarding the said property and he came to know that his brother Mr.Durai and Iyyer along with Samipillai and their legal heirs all together jointly sold the total extent of Acre 1.93 cents of land to Vedavalli on 20.02.2001 in Document No.585 of 2001 on the file of the Sub-Registrar-II, Thiruvannamalai Distict. Further, they have sold 0.65 cents of land in Punjai Survey No.36/3, in which the petitioner's 1/3rd share ie. 0.21.5 cents is included in the sale deed dated 30.05.2005 in document No.3629 of 2005 on the file of the Sub-Registrar-II, Thiruvannamalai.

3. It has been further submitted by the learned counsel for the petitioner that after knowing this fact, the petitioner got shocked and immediately went to the Village Administration Officer and Tahsildar Office wherein he verified the documents including the U.D.R. (under the Land Development Scheme) Patta



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No.79 was amended and the Patta was issued in the name of Samipillai by mistake. It is pertinent to note that the patta was issued in the name of Samipillai is purely by mistake. The said Samipillai and his legal heirs have no entitlement over the share of the property belonging to the petitioner herein on the basis of that Patta and the brothers of the petitioner have forged and executed the sale deed in Document No.583 of 2001 and 3629 of 2005 on the file of the Sub-Registrar-II, Thiruvannamalai together along with the share of the petitioner without his consent and knowledge. Hence, the petitioner has sent a detailed representation to the respondents herein on 13.07.2021 for cancellation of the aforesaid forged Sale Deed No.583/2001 and 3629/2005 executed by the brothers of the petitioner and Samipillai. Even after receiving the aforesaid representation dated 13.07.2021, the respondents have neither taken any action nor sent any reply on the aforesaid representation. As there is no progress on the representation filed by the petitioner so far, he has no other alternative and efficacious remedy to approach this Court seeking for its jurisdiction by invoking under Article 226 of Constitution of India for issuance of Writ of mandamus directing the respondents to consider the representation dated 13.07.2021 of the petitioner. Hence, this Petition.

4. The learned Government Advocate appearing for the respondents would submit that around 50 years ago, the petitioner and his brothers themselves have made a verbal subdivision regarding the share to the property herein. Accordingly, 1/3rd share has been allotted to the petitioner herein and the same was in enjoyment and possession of the petitioner. However, the brother of the petitioner and Samipillai have sold the land to the extent of 0.65 cents in Punjay Survey No.36/3, in which 1/3rd share of the petitioner is included, to one Pandian. Hence, the respondents may be directed to consider his representation on verification of the valid documents after calling upon the parties concerned.

5. Heard, the learned counsel for the petitioner and the learned Government Advocate for the respondents as well as perused the material available on record.

6. Having considered the facts and circumstances of the case and submissions made by the learned counsel for the petitioner as well as the learned Government Advocate for the respondent, without going into merits of the case, this Court directs the respondents to consider the representation dated 13.07.2021 made by the petitioner herein and pass appropriate orders in accordance with law after perusing the related documents relied by the petitioner herein within a period of four months from the date of receipt of copy of this order.



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7. With the aforesaid directions, this Writ petition is disposed of. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

Lbm

To:

1. The Inspector General of Registration,
No.100, Santhom High Road,
Chennai - 600 028.
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Thiruvannamalai District-606 604.
3. The Sub Registrar Joint-II,
Thiruvannamalai Taluk,
Thiruvannamalai District-606 601.

+1cc to Mr.K.Kathiresan, Advocate, S.R.No.44851

+1cc to the Government Pleader, S.R.No.45513

W.P. No.18638 of 2021

KG(CO)
SU(27/10/2021)