

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.8768 of 2014

G.Malliga

.. Petitioner

Vs.

The Joint Sub Registrar No.1
Saidapet, South Chennai
Chennai - 600 015

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondent from registering any document and making entries in respect of the land comprised in Survey No.74/1 to an extent of 0.21 cents situate at Pallikaranai Village, Sozhinganallur Taluk, Kancheepuram District based on the representation of the petitioner dated 10.3.2014.

For Petitioner : Mr.G.Vinothkumar

For Respondent : Mr.B.Kannan, Govt. Advocate

O R D E R

This writ petition is filed for issuing a Writ of Mandamus, forbearing the respondent from registering any document and making any entries in respect of the land comprised in Survey No.74/1 to an extent of 0.21 cents situated at Pallikaranai Village, Sholinganallur Taluk, Kancheepuram District, based on the representation of the petitioner dated 10.03.2014.

2. Brief facts that are necessary for the disposal of the writ petition are as follows: Petitioner claims ownership for an extent of 21 cents of land comprised in S. No.74/1 in Pallikaranai Village, Sholinganallur Taluk, Kancheepuram District. It is the case of the petitioner that the said property was purchased by petitioner's husband by name Gopalsamy under a registered Sale Deed dated 14.07.1969. The petitioner states that the property stood in the name of petitioner's

husband as per revenue records. It is stated that petitioner's husband died on 04.04.2002 and that the petitioner obtained a legal heir certificate from the Tahsildar to show that the petitioner and her sons are the legal representatives of the petitioner's husband Mr.Gopalsamy.

3. It is the further case of the petitioner that when she made an application to the Tahsildar for survey of their property in Survey No.74/1 in Pallikaranai Village, Sholinganallur Taluk, it is informed to the petitioner by the Tahsildar that the revenue records had been mutated in favour of one Lakshmi. Thereafter, the petitioner submitted a representation to the Tahsildar to cancel the mutation effected in favour of the said Lakshmi wife of one Kannabiran. Describing the mutation of revenue records from the name of petitioner's husband to the said Lakshmi as an attempt of land grabbing, the petitioner seeks the assistance of this court to give a direction to the respondent not to register any document.

4. The petitioner has produced before this court 'A' Register prepared after UDR to show that an extent of about 21 cents stands in the name of petitioner's husband by name Gopalsamy. The petitioner has also produced before this court, the adangal showing the name of Shri.Gopalsamy and its cancellation. From the documents, it is seen that the petitioner has produced some records to prove her title and ownership as per revenue records.

5. It is stated in the affidavit filed in support of the petition that the petitioner had earlier filed W.P. No.8196/2014 for a direction to the respondent to issue patta in favour of the petitioner in respect of the property in S. No.74/1 in Pallikaranai village. It is also stated in the affidavit that the respondent has passed an order granting patta in favour of the petitioner in respect of the property measuring an extent of 21 cents in S. No.74/1. From the subsequent events and the proceedings of the Tahsildar, it is stated that the petitioner's ownership is admitted by the revenue officials. In such circumstances, it is relevant to mention that a Registering Officer can entertain a document of conveyance from a person only if the name of the executant is found in the revenue records. In other words, it is the requirement of Section 5 of the Tamil Nadu Patta Pass Book Act, 1983 that a person who presents the document for conveyance, should produce the patta relating to the property.

6. Section 5 of the Tamil Nadu Patta Passbook Act, 1983 clearly stipulates that no document relating to transfer of any land would be registered by the Registering authority unless the patta passbook relating to such land is produced before the

Registering authority. Since the petitioner states that patta has been granted in favour of the petitioner, no transfer has got to be effected at the instance of anybody else than the petitioner. It is not possible for the Registering authority to accept the document relating to transfer of the land without there being patta passbook in favour of the third party. In such circumstances, this court is of the view that this writ petition can be disposed of in the following lines:

7. Without expressing any opinion on the merits of petitioner's representation, the respondent is directed to consider the representation of the petitioner dated 10.03.2014 in the light of the patta granted in favour of the petitioner pursuant to the direction of this court in the earlier writ petition. It is made clear that in case the respondent finds or receives any other document of conveyance from a person whose name is not found in the revenue records as pattadar or unable to produce patta passbook, it is open to him to refuse the document to be registered on the basis of Section 5 of the Tamil Nadu Patta Passbook Act, 1983, after holding an enquiry. However, the respondent shall give sufficient opportunity to the petitioner or anyone who is interested, while passing an order on the basis of the representation of the petitioner or when he considers the issue whether the document presented by the third party should be registered or not.

8. With the above direction, the writ petition is disposed of. However, there is no order as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

asr

To

The Joint Sub Registrar No.1
Saidapet, South Chennai
Chennai - 600 015

W.P.No.8768 of 2014

GSM(CO)
KM(30/04/2021)