

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2021

CORAM:

THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

W.P.No.20763 of 2021

and

WMP.No.22023 of 2021

K.Lingadevi

...Petitioner

Versus

1.The District Registrar,
Office of the District Registrar,
Coimbatore.

2.M.S.Anandharaj,

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certorari, calling for the records relating to the notice issued by the 1st respondent in No.3874/2021 dated 01.09.2021 and quash the same.

For Petitioner : Mr.S.Parthasarathy

For Respondents : Mr.Yogesh Kannadasan
Government Advocate

ORDER

This writ petition has been filed challenging the impugned notice No.3874/Aa1/2021, dated 01.09.2021 issued by the first respondent/District Registrar, Coimbatore.

2. According to the petitioner, she is the absolute owner of the undivided half share comprised in Old T.S.No.5/272 Part and New T.S.No.5/296 Part.No.2, Otthachakkaram Street, Vadapurasiruni, Coimbatore District, measuring an extent of 468 sqft and in the same survey number in another property measuring an extent of 152 sqft and 392 sqft. The property in the same survey number measuring an extent of 390 sqft having total extent of 1402 sqft., with building. The aforesaid property was purchased from Bramaiah and Lakshmiammal in the name of petitioner's father and his brothers, namely, Vijayalingam and Saravanalingam and assigned as Door Nos.148-149, 149A, 149B and 149C and the said property was assessed to property tax, electricity connection and water connection. On 02.03.2020, the said Vijayalingam's family members, namely, Jayakani, Jayaseelingam, Padmashreelingam and Lingabarath had

sold their half share in the above said property in favour of the petitioner by way of registered sale deed vide Doc.No.1456 of 2020. In the meanwhile, Saravanningam died as a bachelor since then the petitioner is in joint possession and enjoyment of the said property. Thereafter, the 2nd respondent lodged a complaint with the 1st respondent/District Registrar to cancel the said sale deeds. Also, the Power of Attorney was also given by the petitioner in favour of one Akbar Basha to maintain the said property. Subsequently, his mother M.Selvamani had purchased the above said property through Court auction registered vide Doc.No. 3249 of 2000 and possession was taken on 01.03.2003 by way of E.P.No.29 of 2001. Since then, he is in possession and enjoyment of the same. Further, he has stated that the petitioner's father preferred in S.A.No.547 of 2001 and CRP(NPD).No.299 of 2003 before this court and the same was ordered on 29.03.2019 by canceling the said sale deeds purchased by her father in respect of his brothers sale deeds vide Document Nos.1641/1986, 3482/2001, 847/2002 and his possession was also confirmed on 16.10.2019. In view of suppressing the aforesaid facts, the sale deed vide Doc.Nos.1456 of 2020 and 1459 of 2020 were registered fraudulently before the Joint-I, Sub Registrar Office, Coimbatore. In this regard, the second respondent was not aware of the judgment passed in S.A. No.547 of 2001 and CRP(NPD). No.299 of 2003 and taking steps to set aside the said judgment, without taking into consideration of the 1st respondent. Based on the complaint, the first respondent issued a notice calling upon the petitioner to attend the enquiry on 07.09.2021 and she had appeared with relevant documents and was directed to file a written statement. Further, the 1st respondent has no right to conduct the enquiry with regard to the disputed question of facts. Hence, the petitioner has come forward with the present writ petition for seeking appropriate relief.

3. Heard the learned counsel appearing for the petitioner, learned Government Advocate appearing for the first respondent and perused the materials available on record.

4. On perusal of the records, it is seen that there is an averment made by the second respondent, wherein, the petitioner has purchased the aforesaid property by way of Court auction in E.P.No. 29 of 2001. In the meanwhile, the petitioner's father preferred S.A.No.547 of 2001 and CRP(NPD). No.299 of 2003 before this Court and the same was ordered by canceling the said Document Nos.1641 of 1986, 3482 of 2001 and 847 of 2002 purchased by the father of the petitioner and his brothers. Further, his possession was also confirmed on 16.10.2019. While that being the case, the petitioner is permitted to approach the competent civil Court, can decide the aforesaid issue of title and hence, the first respondent/District Registrar is not a competent authority to decide the same.

5. It is also seen that the petitioner was of not aware of the judgment and decree passed in S.A.No. 547 of 2001 and CRP(NPD).No.299 of 2003 and she has not stated in his petition for taking steps to set aside the said judgment and decree to contest the same. Without considering the said facts, the first respondent called upon the petitioner to attend the enquiry on 07.08.2021 with all relevant documents. Hence, as there is a dispute with regard to the title of the aforesaid property, whether the petitioner's father had the title or the second respondent purchased the property by way of Court auction and the same can be decided before the competent civil Court not before this Court. While that being the case, the petitioner cannot her claim before the authority, has no right to consider the representation sent by the second respondent.

6. It is also seen that notice was issued by the competent authority to the second respondent along with 11 persons to find out any forged documents have been executed by the petitioner herein, or the second respondent directed to appear before the competent authority with all relevant documents, namely, the title and revenue documents. If there is any cases are pending or any other orders obtained from the competent civil Court by the petitioner and the same have to be produced before the competent authority to seek appropriate relief. Hence, in view of the above, the petitioner's prayer cannot be granted to the petitioner and the petitioner has to approach the first respondent regarding any forged documents being executed by her. Also, the competent authority can take appropriate action on the sale deeds vide Doc.Nos.1456 and 1459 of 2020 registered fraudulently, before the Joint-I, Sub Registrar Office, Coimbatore, under the provision of Cr.P.C., and the said act of the authorities have been confirmed by the Government by way of passing a new act as per the same. The first respondent/District Registrar, is empowered to conduct an enquiry in respect of the aforesaid sale deeds registered before the Sub Registrar Office and pass appropriate orders in accordance with law. However, the petitioner is at liberty to approach the authorities concerned to prove her case.

7. Accordingly, the writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

gba/msm

To

The District Registrar,
Office of the District Registrar,
Coimbatore.

+1cc to Mr.S.Parthasarathy, Advocate SR. No.50411
+1cc to Government Pleader SR. No.50869

W.P.No.20763 of 2021

BS (CO)
PR (24/01/2022)